

# Law Enforcement News

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## Good economics, or tawdry hucksterism?

### Do ads on police cars come with too high a price tag?

Although the prospect of purchasing police vehicles for \$1 apiece in return for allowing them to be used as advertising space may be tempting in the present economy, some police departments are resisting the urge, and their restraint is being applauded by a number of criminal justice experts.

In a letter signed by 20 academicians from a variety of disciplines, including law and sociology, opponents of the trend urged business leaders "not to participate in the scheme," which they said "would cheapen or degrade the men and women who maintain order in our communities, or would make them objects of ridicule and contempt."

At least 75 cities and towns have agreed to talk with Government Acquisitions LLC, the North Carolina-based company selling the cars, and 12 have agreed to purchase them already, according to the letter, which was sent to the chief executive officers of the nation's 100 leading advertisers.

"There are a number of problems with it," said Gary Ruskin, executive director of Commercial Alert, the nonprofit group that organized the backlash. "It can lead to conflicts of interest because police officers may have to conduct actions related to their advertisers. Second, the police car is the most visible symbol of police in a community; often, the most visible symbol of justice in a community. When you put an ad on a



Despite the economic appeal, a backlash is building against turning police cruisers into ad-laden imitations of NASCAR racers. (Government Acquisitions LLC)

police car, what you're saying is the police and justice system are for sale, in an extremely visible way."

Among those who signed Ruskin's letter were John J. Gibbs, professor of criminology at Indiana University of Pennsylvania; Norval Morris, Julius Kreeger Professor emeritus of Law and Criminology at the University of Chicago Law School; Dennis Rosenbaum, professor of criminal justice

and psychology at the University of Illinois-Chicago, and Arthur J. Lurigio, professor of criminal justice at Loyola University of Chicago.

"There is a very high cost to the integrity of both the police and the criminal justice system," Ruskin told Law Enforcement News. "It turns [law enforcement officers] into tawdry hucksters for things like burgers and fries. We ought not to

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## Can't get no satisfaction? Study says to focus on quality of public contacts

Police departments would be better served by focusing their efforts on giving residents a positive image of their officers rather than by trying to change the quality of life in a community — something they may be far less capable of bringing about, according to a new study, which also joined the ranks of those taking aim at the "Broken Windows" theory.

In "Satisfaction With Police — What Matters?," funded by the National Institute of Justice, researchers reaffirmed that quality of life indeed accounts most strongly for a person's level of such

satisfaction. However, inconsistent views among individuals as to what constitutes poor neighborhood conditions tend to "limit the relevance" of using quality-of-life measures to develop policies aimed at improving satisfaction with the police.

Consequently, the researchers said, improving daily interactions between patrol officers and citizens may be the best strategy for law enforcement administrators.

The study found that residents who rate their neighborhoods favorably and feel a sense of safety hold police in high

esteem, despite individual characteristics such as age and race. Moreover, a key element to this satisfaction involved the individual's direct experience with law enforcement. Given that, good-faith efforts to meet or exceed public expectations of police behavior were likely to succeed, even if neighborhood conditions remained the same, the study noted.

"People who have contact with police that they deem satisfactory even if it's what we consider a negative occurrence like getting a traffic citation, if they are treated respectfully, if the officer is professional, if they offer various tips on how to take care of the ticket and that kind of thing, they are more likely to have a more positive image of the police in general," Michael D. Reisig, an associate professor of criminal justice at Michigan State University and the study's lead author, said in an interview with Law Enforcement News. "That is something police can control more readily than how people feel about their environment."

The findings were based on telephone interviews with 5,361 residents in 58 neighborhoods in St. Petersburg, Fla., and Indianapolis. Participants were queried on which of several factors influenced their satisfaction with police, such as personal encounters with law enforcement during calls for service or traffic stops; quality of life, including social disorder and crime; and the "neighborhood context," as defined by

economic status and homicide rate.

Whites and non-black minorities expressed significantly greater satisfaction with police than did their black neighbors, according to the survey. And those ages 18 to 32 tended to be less satisfied with police than were older residents.

In the two cities studied, black residents were disproportionately concentrated in neighborhoods with higher levels of poverty, unemployment, and homes headed by single mothers, said Reisig, but whether they view their environment as less favorable than white counterparts is not clear.

Follow-up research showed that when structural characteristics such as poverty were taken into account, black residents of St. Petersburg and Indianapolis were no more likely to describe their immediate environment in negative terms than were whites, said Reisig.

According to the study, it is far easier for an officer to influence an individual's impression of him or her than to influence that person's impression of the community. The study suggests that police executives identify residents' expectations pertaining to officers' demeanors in different situations. Most residents, it said, expect police to refrain from sarcasm, and act courteously and respectfully.

"Identify the service expectations that citizens have that are realistic given police resource constraints and provid-

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## Grades are slipping, as MADD issues 2nd DUI "report card"

Three years ago, the nation earned a grade of only "C+" from Mothers Against Drunk Driving for states' efforts to prevent traffic-related fatalities. In its newest report card, issued this month, MADD has lowered that grade to a "C."

The report grades the nation on its efforts, state by state, to combat drunk driving and underage drinking. Between 1999 and 2001, traffic fatalities involving alcohol rose by 5 percent, from 16,500 to 17,448 — a figure representing 41 percent of all deadly accidents, the report said. Progress in reducing the number of highway deaths caused by alcohol stalled between 1993

**Cruising down the high-way:** The growing problem of people driving while drugged. **Page 11.**

and 1999, according to the report.

The National Highway Safety Council predicted that 575 people would be killed on the roads during the Thanksgiving holiday weekend this year, with 30,500 injured in highway crashes. Up to half of those would be due to alcohol-impaired driving, according to the council's forecast.

"At the rate we are going, one-third of Americans will be involved in an alcohol-related crash at some point in

their lives," said Jim Wallace, president and chief executive officer of GuideOne Insurance, a firm that provided seed money to help found the first MADD chapter in 1980. "That is unacceptable. Clearly, the nation and all of the states can and should do better."

The 2002 report card awarded 60 percent of each state's overall grade for its alcohol-related fatality trend and priority drunk driving laws. Political leadership, blood-alcohol testing and records, and law enforcement programs were among the factors that made up the remaining 40 percent.

Although no state received an "A,"

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# Around the Nation

## Northeast



**CONNECTICUT** — Ten state police officers and two supervisors have been working in Hartford to make up for the city's manpower shortage. Although the initiative was to have ended by Halloween, more retirements within the Hartford police force have caused state and city officials to extend the operation for at least another month. Critics of the effort, including the president of the Hartford police union, Sgt. Michael Wood, said the problem should be addressed on a long-term basis, and more officers should be hired.

A state appeals court has ordered a new trial for former New Milford police officer Scott Smith. Smith, the first officer in the state ever to have been prosecuted for murder for an on-duty shooting, was convicted of manslaughter in 2000 and sentenced to six years in prison for shooting a black suspect, Franklin Reid, in the back at close range. The court ruled that although there was sufficient evidence for the conviction, the trial judge should have allowed more defense experts to testify.

**MAINE** — After a recent series of drug arrests in Somerset County, police uncovered a drug pipeline between Maine and Arizona. County detective Lt. Carl Gottardi said that large-scale dealers in Maine hire people who fly to Arizona and other states, rent a car or buy a used vehicle and then drive drugs back. A multistate investigation is underway.

**MASSACHUSETTS** — State police lieutenant Paula Lord and Rosemarie Murphy have filed complaints with the state Commission against Discrimination, accusing the police agency of impeding women from moving up the ranks. The women contend that four captain's positions were open and the department purposely waited until a new promotion list was issued until they filled those positions. Lord and Murphy were among the top four contenders on the old promotion list. On the new list, the first 12 candidates were male.

Pittsfield Police Chief Anthony Riello removed 11 of the 14 members from the city's auxiliary police unit after they ignored a directive to meet with him regarding a dispute over whether the volunteers should carry guns. The officers say they should have the means to protect themselves because they look and act like police officers. Riello opposes arming the group. City Councilor Robert Tuttle, who sponsored a measure to arm the auxiliary officers, called the chief's actions despicable, adding that it's the City Council and not the chief that makes policy.

Lawyers for the city of Springfield have asked a judge to throw out a lawsuit by five high-ranking male police officers who are challenging a role-playing exam that led to the appointment of the city's first female police chief in 1996. The lawyers pointed out that Police Chief Paula Meara finished with the top score for a second time when the reverse-discrimination issue forced a second, more traditional multiple-choice exam in 1998. Meara was the first woman to be named chief in a big city in New England.

**NEW JERSEY** — "Smart gun" legislation is moving forward in the state Assembly. The measure, if adopted, would require new handguns sold in the state to have a mechanism that would prevent anyone but the gun's owner to fire it. The measure was passed in the Senate but stalled in the lower chamber when the chair of the Law and Public Safety Committee, Peter Barnes, said that bill should be amended to mandate that law enforcement officers' handguns be equipped with the same mechanisms.

A 14-month investigation by the State Police street gang unit has led to the indictment and arrest of 41 alleged members of the Latin Kings gang on a range of charges, including the attempted murder of a rival gang member, the drug trafficking, and the possession, use and sale of prohibited assault weapons. The investigation also uncovered a multistate cocaine trafficking network with connections reaching to Illinois, Pennsylvania and other states.

**NEW YORK** — Three police officers in Brooklyn, Susan F. Lavin, Robert L. Herold and Jeanine O'Malley, have been accused of making up accident reports in exchange for cash and prescription drugs, as part of an expansive insurance fraud scheme. All three have been suspended without pay. They face up to seven years in prison if convicted.

**PENNSYLVANIA** — Philadelphia police Sgt. Jeffrey Trocbs, 41, was fatally shot at his ex-girlfriend's home in White Plains, N.Y., after returning with their son from a custody visit. The gun was owned by his ex-girlfriend, Pia Stefanelli. Her boyfriend, William Nardozi, a Westchester County administrator, was also in the apartment at the time. White Plains police are investigating and have not yet said who fired the shot.

Two Philadelphia police officers, Gina McFadden and Dawn Norman, were convicted of misdemeanors and fired for using their squad car computer to send a profanity-laced message about anthrax to every police cruiser in the city. Although they later said that McFadden meant to send the message only to her partner and broadcast it by accident, they initially made up a story about someone using their patrol car computer while they left the vehicle unattended.

**VERMONT** — Burlington Police Lt. Michael Schirling and a professor at Champlain College are team-teaching a computer forensics course. Schirling began his mission in 1997 when, while investigating crimes against children, he was able to track down a suspected child pornographer using the Internet. His course will teach officers to track Internet addresses, crack passwords, enter chat rooms, and use disk drive analysis.

The Hardwick Police Department, which has been struggling with a staffing shortage, is offering signing bonuses of up to \$1,500. The town has a budget for five officers and a chief but has been making do with only two full-time officers, a chief, and some part-timers. Anyone who takes a bonus will have to sign an agreement to stay on the job for at least a year or pay back the money.

## Southeast



**ARKANSAS** — Law enforcement agencies in Arkansas are preparing to switch from the traditional Uniform Crime Reporting format to the more detailed National Incident-Based Reporting System. Last month, the state awarded Relativity Inc., a Jonesboro company, a contract to develop software for NIBRS reporting. An initial mailing to 301 state agencies, resulted in over a third of the agencies requesting the software. Agencies are also preparing community leaders for what may look like a surge in crime because of the reporting differences between the two formats. [See LEN, Sept. 30, 2002; Feb. 28, 2002; Nov. 30, 2000; Sept. 15, 2000.]

**FLORIDA** — Viisage Technology, a company specializing in facial recognition technology and secure identification systems, has been awarded a \$2.4-million contract to expand statewide a system it developed for the Pinellas County Sheriff's Office, including the integration of the technology onto police laptops and handheld mobile devices. The expansion is being funded by a grant from the U.S. Department of Justice.

St. Petersburg police union leaders are asking for an independent study of the police department to determine whether management problems are the reason why so many officers are quitting. Of the 77 officers who have left the department since 2001, almost half went to other police agencies. Police officials are developing ways to market the agency and improve recruiting and retention. The department has added a second officer as a full-time recruiter and is considering administering confidential exit interviews.

Palmetto Police Chief Garry Lowe recently hired Chris Reyes, the department's first female Hispanic officer, a year after allegations of racism and sexual harassment plagued the department. Of the department's 34 officers, seven are minorities and with the hiring of Reyes, there are now four women on patrol. Reyes is also one of the few officers in the department who speak fluent Spanish.

**LOUISIANA** — During a special ceremony on Oct. 1, John L. Gill, 49, became the first black to be promoted to lieutenant in the Bossier City Police Department, and Lynne M. Roy, 43, became the first female to hold that rank. Both are 23-year veterans of the department. Officer Pat Chambers, a native-born Hawaiian, became the first Pacific Islander to be promoted to sergeant by the department.

Former New Orleans police officer Ernest Bickham got a job as a federal security screener at the city's Louis Armstrong International airport even though he was under investigation for alleged wire fraud allegations when he resigned from the department in July. He was indicted Oct. 24 on federal fraud charges. He remains on the job at the airport pending a decision on possible action by the federal Transportation Security Administration.

tion Security Administration.

**MISSISSIPPI** — Prosecutors have upgraded the charge against Jonathan White, 26, to capital murder in the death of Moss Point Police Officer Larry Lee. White hit Lee's patrol car nearly head-on with a stolen Chevy Blazer last month. He is also charged with stealing the sport utility vehicle.

The municipal court in Gulfport will begin using a new offender-monitoring program in hopes to improve public safety. The system uses ankle bracelets and satellite technology at a cost of \$2.30 per day.

Lee County sheriff's deputies Jason Stanford and Danny Dillard have been found not guilty of beating Billy Ray Stone, the man suspected of killing Sheriff Harold Ray Presley in 2001. Stone died following a shootout with deputies and Presley.

**SOUTH CAROLINA** — Education officials plan to ask the legislature for \$1 million for a state center for dropout prevention and truancy to create an alternative to jail for truant teens. More than 300 children a year are jailed for truancy in the state.

Greenville County sheriff's deputy Dale Silver was suspended for two days without pay last month after shooting fellow deputy Tom Busby in the leg during a shootout in which a suspect hiding in a closet fired a round that nearly hit Busby in the head. Sheriff Steve Loftis said that Silver violated a policy that an officer have a clear line of sight before discharging his weapon.

**VIRGINIA** — On Oct. 17, Dinwiddie County sheriff's deputy Timonty Wayne Martin was killed when his cruiser crashed while he was responding to a call. He was ejected from his car when it went off the shoulder and hit several trees. He was taken by police helicopter to a Richmond hospital but died a few hours later.

Cashier Cathy Harris, who has worked at a Charlottesville 7-eleven store for 20 years, was angered when a robber sneaked up on her. She dropped the cash drawer and told the man, who claimed to be armed, "If you want the money, you pick it up." She then threw a stapler at him after he helped himself to \$36. Store owner Katie Nelson said she was concerned for her employee's safety and reprimanded Harris, telling her "You're supposed to be scared, not angry."

## Midwest



**ILLINOIS** — Due to budget constraints, Washington Park has had to layoff 10 part-time police officers, leaving the village of 5,300 people with nine full-time officers, including the chief, a detective, and a lieutenant. The Illinois State Police has offered to help patrol the village at crucial times.

City officials in East St. Louis are looking to cut police overtime by putting officers on 12-hour shifts, causing police union officials to balk. The new scheduling would require that officers work 44 hours, as opposed to 40, before overtime is paid.

A former president of the local Fraternal Order of Police, Sgt. Dennis Butler, said that the new schedule does not address the real problem facing the department — not enough officers. The city is facing a projected \$1-million deficit in 2003.

**INDIANA** — The city of Hammond has replaced its old jail with a new \$12-million facility that can hold 76 inmates. The old jail, which had small cells and was by all accounts filthy with a sickening stench will be missed by Police Chief John Cory, who quipped that the city was "losing our biggest deterrent to crime."

**KENTUCKY** — The Elizabethtown Police Department, together with the High School Academy of Hardin County, is offering high school students an enrichment program that helps students learn about law enforcement careers. Recently, six students interested in criminal justice were able to learn about police forensic procedures during their fall break by going to a mock crime scene and dusting for fingerprints, taking photographs and identifying suspects. The police department also offers a cadet program for students that gives them the opportunity to work at the department, including participating in ride-alongs.

**MICHIGAN** — A Warren grandmother, Brenda Bishop, 50, was arraigned Oct. 31 on bank robbery charges. Bishop told police that she needed the money to pay off gambling debts. Although bank robberies in the state dropped by 25 percent in the first half of this year, the number of female bank robbers is on the rise. In 2000, there were 561 reported female bandits, up from 299 in 1995.

On the heels of a scandal in which a civilian Detroit Police Department employee allegedly stole more than 220 pounds of cocaine from an evidence room, police now say that \$5 million is apparently missing from the same evidence room. Police blame a computer-generated index of the evidence room that doesn't match items that are actually on the shelves. Deputy Chief Gary Brown of the Professional Accountability Bureau promised the Detroit Board of Police Commissioners to get the evidence room back in order. Meanwhile, police are taking money seized in criminal cases to a bank for safekeeping.

**OHIO** — Officials in Cincinnati are said to be disappointed in the \$315,000 given to the city by the U. S. Justice Department for police reforms. The amount is about 2 percent of a total bill that is expected to exceed \$13 million. Following a federal review prompted by the fatal police shooting of a black man, Attorney General John Ashcroft signed an agreement with the city in April that committed Cincinnati to improving training and policies. Ashcroft, in turn, promised to help the city with funding.

Five-year-old Imari Brooks of Maple Heights was found unharmed and her abductor arrested a few hours after authorities used northeast Ohio's Amber Alert system. Just an hour after sounding the alert, the Maple Heights police were inundated with phone calls. Authorities from Maple Heights, Euclid, Cleveland Heights, and the FBI coordinated efforts. James Bennett, 21, was

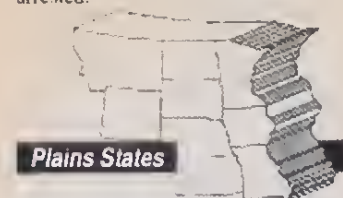


taken into custody after Euclid authorities raided a building and found the girl.

A 17-year-old student at Firestone High School in Akron, who stabbed an elderly couple, had been released from a juvenile correction facility two months earlier and was on parole after serving four years for raping a child. The boy was involved in a fight at school and officials managed to stop the fight and handcuff all the youths involved, but the boy bolted from the school and knocked on the door of an elderly couple nearby, where he stabbed them. Mayor Donald Plusquellic called on the Ohio Department of Youth Services to develop a program that would preclude the assimilation of such youths back into the public schools.

**WISCONSIN** — The Fond du Lac County Sheriff's Department will use a new global positioning system to track selected inmates on work release that would not require them to return to jail at the end of a work or school day. The system will enable the department to track inmates outside the jail with wristbands that alert officers if the inmate travels outside a designated area.

Madison police had to use tear gas and pepper spray to break up a crowd of about 65,000 people during the city's annual Halloween party, when a disturbance broke out and some people started looting, throwing bottles and destroying property. Officials believe the disturbance may have started after some people had a fight with bottles. When police responded, others threw bottles at them. At least 16 people were arrested.



Plains States

**MISSOURI** — The city of St. Louis has a new Web site from which users can retrieve information about the type and frequency of crimes in their neighborhoods. The Safe City Web site is part of Mayor Francis Slay's Neighborhood Life Initiative, a series of programs that have been initiated to reduce crime and improve neighborhoods.

An unusual public squabble has pitted a federal district judge against the St. Louis-based U.S. court of appeals. District Judge Charles A. Shaw, who is black, accused the appellate judges of acting on the basis of race when they reversed his decision in the case of a white police officer who sued the St. Louis Board of Police Commissioners and other officials. The officer alleged that his civil rights were violated while he was being investigated for the assault of a black teenager. Shaw ruled against the officer and the appeals court overturned that ruling.

An anonymous woman has donated \$3,000 to be used for a DNA test in order to help identify a murdered girl found in St. Louis in 1983. The woman believes the victim, who was 8 to 10 years old and had been sexually assaulted and decapitated, is an American Indian girl from the Midwest. The woman even claims to know the identity of the killer. She gave the cash to South Patrol Detective Joe Burgoon, who was involved in the original ho-

micide investigation, to send the DNA sample to a laboratory in Virginia.

**NEBRASKA** — To comply with a federal law passed after the Sept. 11, 2001, attacks, 41 communities throughout the state are examining their security procedures at public utilities to guard against bioterrorism threats. The Omaha Metropolitan Utilities District has tripled its security spending to about \$750,000 a year; Lincoln is spending about \$30,000 more. Improvements have included more security officers, physical barriers and better communications with law enforcement. Some utilities will receive partial reimbursement from the federal Environmental Protection Agency.

**NORTH DAKOTA** — The state has received all but \$396,000 of a \$6.9-million federal grant to prepare for terrorism-related health emergencies. The money already received has funded the hiring of officials, including a state bioterrorism coordinator, and infrastructure improvements. The additional funds are earmarked for a special van to be used for training and as a disaster command center, and for training and laboratory equipment.

**WYOMING** — Sheridan police are saying that the county attorney's office should have issued a warrant for Lucien Sidney Bonck, who was being investigated for two molestations there last spring, before he molested two children in Montana. The county attorney declined to comment other than saying that the county cases were not ready for prosecution. Police Chief Vince Yards said that the only thing missing from the police report to the prosecutor's office was an interview with the suspect, who was arrested in late October in Billings, Mont.



Southwest

**ARIZONA** — A judge has dismissed a charge of sexual exploitation of a minor against former El Mirage police officer Brian Hazlett. The judge ruled that the law Hazlett was accused of violating was unconstitutional in light of an April ruling by the U. S. Supreme Court on virtual child pornography. Hazlett was forced to resign after his mother gave the department photos of him standing naked in front of a Christmas tree with clothed children.

**COLORADO** — Robert Viyard, a man accused of stalking a Longmont woman for 23 years, has been ordered back to jail for eight months for violating terms of his probation. Police say that Viyard recently sent the woman a sexually explicit letter from a jail holding cell.

**NEW MEXICO** — Four men were arrested Oct. 30 and charged with impersonating federal officers to pull motorists over for speeding or ID checks near the Texas border. Police say that the men became so brazen they even called for backup several times and identified themselves as responding officers as members of a federally funded search-and-rescue squad.

A jury has awarded \$32,000 to two

members of the Potters House Christian Center, ruling that Santa Fe Police Chief John Denko and Officer Martin Bird violated their rights by dousing them with pepper spray after the city's annual Zozobra celebration in 1999. The plaintiffs contended that they were just preaching but Denko said the group became confrontational and blocked a vital intersection through which the Zozobra crowd had to pass.

Albuquerque City Council member Greg Payne is introducing legislation that would permit the confiscation of vehicles from drivers caught for a second DWI offense. Under a 1994 law, police are allowed to seize vehicles from drivers stopped three or more times for drunken driving. Officials said that if Payne's proposal were to pass, the city would need about 150 more boots to disable cars and would have to hire more attorneys.

**OKLAHOMA** — A federal appeals court has ruled that former FBI official Oliver "Buck" Revell cannot recover damages for alleged defamation contained in a book about the Oklahoma City bombing, because there was no evidence that the author acted with "actual malice." Revell had accused author, David Hoffman, the author of "The Oklahoma City Bombing and the Politics of Terror," of defaming him through statements about his role in other terrorism cases and "by innuendo" portraying him as a co-conspirator in the 1995 bombing.

Several juveniles allegedly threw a homemade bomb made out of broken firecrackers at the police station in Antlers, causing powder burns to the front door and some nearby police cars. Police Chief Dwayne Morgan said that a 16-year-old has taken responsibility for the explosion.

A mistrial was declared Oct. 18 in the murder trial of Kenneth Barrett, when one juror held out on voting to convict him in the 1999 shooting death of Oklahoma Highway Patrol Trooper David Eales. Barrett is accused of shooting Eales when the trooper came to serve a "no knock" search warrant to look for methamphetamine. Barrett claims he acted in self-defense. The shooting underscored the controversy over no-knock warrants. Although critics say such warrants create an element of danger for law enforcement, officials say the warrants are a valuable tool in catching suspects and collecting evidence before it can be destroyed. The guidelines for no-knock warrants were expanded in 1999, the same year Eales was killed.

**TEXAS** — Thomas "Hap" Roberts, a cattle theft investigator based in Kingsville, says cattle rustling is more common today than it was in the Old West, and investigators have gone high-tech to match the sophistication of modern rustlers. Investigators, who work for private organizations but are commissioned through the Texas Department of Public Safety, use computer records to check cattle brands when cattle are sold at markets. The Texas and Southwestern Cattle Raisers Association investigated 1,297 criminal cases last year.

A search by Garland police of a pickup truck sporting an NRA sticker was ruled unlawful by the United States Court of

Appeals for the Fifth Circuit. The majority wrote "if the presence of an NRA sticker and camouflage gear in a vehicle could be used by an officer to conclude he was in danger, half the pickups in the state of Texas would be subject to a vehicle search."

Police looking for a burglar in a Brookshire supermarket literally had the suspect fall into their hands, when he tumbled from his hiding place in the store's drop ceiling. Brookshire Police Chief Joe Prejean said the suspect took an armful of prepared prescriptions, which included codeine cough medicine and diabetic supplies.

**UTAH** — When it comes to policing in Enoch, David Browning has no equal. Browning, a 15-year law enforcement veteran, was chosen last month as the town's new police chief — and only cop. He will take over law enforcement responsibilities that have been covered by the Iron County sheriff's office, at an annual cost of \$40,000.



Far West

**ALASKA** — Three teenagers in Tununuk were taken into custody and two face charges of making terrorist threats after they allegedly brought guns to school. The boys told authorities they were going to kill several other students because they were tired of being picked on.

**CALIFORNIA** — On Nov. 5, the Los Angeles Police Commission approved a new policy of posting racial data from traffic stops over the last three months on the department's Web site. As part of a federal consent decree aimed at ending racial profiling and other civil rights abuses, the department has been collecting race and other information for the past year.

The Merced County Sheriff's Department has switched from Beretta to Glock handguns. While several area agencies have made the same switch, the department is the only one to equip the Glucks with high-intensity flashlights, mounted on the guns' barrels, to illuminate targets. The new weapons, which cost \$450 each, plus \$90 for the mounted lights, will be paid for with a state grant aimed at helping law enforcement agencies in rural areas.

A Superior Court judge has ordered the restoration of full retirement benefits for Los Angeles County Sheriff Lee Baca. The county had claimed that Baca's resignation as a sheriff's chief in 1998 ended his employment, but Baca was elected sheriff that same year. After he won the election, the county considered Baca a new employee.

On Nov. 4, Parlier police Sgt. Henry Pruneda, 41, pleaded not guilty to charges that he fondled an 11-year-old girl while on duty. The girl alleges that Pruneda offered to drive her to see her brother, who was in jail. He then drove her to a secluded spot, fondled her and offered her money. The case has stirred up a controversy at city hall, with former city manager Ken Hubler and

Police Chief Martin Monica both saying they were retaliated against because they referred the Pruneda case to Fresno County sheriff's investigators.

**OREGON** — The Central Point police have installed a video camera to keep a watch on the business district. The cameras can tap into a network and transmit video to patrol car laptops and police station computers. Although critics say that the camera may compromise civil rights, the police say they will only focus the surveillance equipment on public and not personal space. The cameras were paid for by a federal community policing grant.

**WASHINGTON** — With the help of some student volunteers, the Spokane County sheriff's SWAT team has been practicing hostage scenarios at the city's new Central Valley High School. Sgt. Steve Barbieri said that the training gives the team a great opportunity to become familiar with the school and its floor plan.

Officials from the Pierce County Law Enforcement Support Agency said that for 18 months, a computer glitch caused thousands of restraining orders to go undetected by a federal database used for background checks in rifle sales. With a system upgrade in 1999, protection orders still appeared in the state's database but not in the federal system. Under the law, people with protection orders against them may not buy guns. The system has since been updated.

After a nightclub pepper-spray incident, officers in Pullman will switch from fog pepper spray to a stream version for indoor use. On Sept. 8, hundreds of patrons at a second floor nightclub — many of them black students from Washington State University — were overwhelmed by pepper spray when officers used it to break up a fight at a first floor restaurant. The spray drifted up to the second floor. An independent investigation cleared officers of accusations of racism and excessive force, but sanctions for unprofessional conduct were recommended.

A federal magistrate has decided that Seattle Police Officer Steve Slaughter, who has been charged with distribution and possession of heroin, extortion and illegal possession of a firearm, must remain behind bars pending trial. In documents filed in U.S. District Court, police detectives and the FBI wrote that Slaughter, while on duty and in uniform, was shaking down drug dealers for cash and drugs, letting them go, and then keeping the money and giving the drugs to an associate.

## MOVING?

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## Class act

It took Wilkesburg, Pa.'s new police chief, **Richard M. Dwyer**, four years to learn to be a teacher, but just 18 months to learn that he liked being a cop even more.

Dwyer, 56, has a bachelor's degree in education from Duquesne University. While substituting teaching during the late 1960s, he also worked as a part-time officer for the Edgewood Police Department.

Keeping order on the streets was apparently more exciting than keeping order in the classroom, because Dwyer eventually joined the Pittsburgh Police Bureau, where he stayed for 33 years, climbing the ranks from undercover work on the vice squad to sergeant and then lieutenant.

In Wilkesburg, Dwyer will be looking to bring stability back to an agency that has had its share of misfortunes over the past few years.

In 2000, **Gerald Brewer** resigned as chief after a three-year tenure. A shooting spree that year by a man named **Ronald Taylor** that left three dead brought national attention. Brewer himself is awaiting trial on theft charges involving the mishandling of confiscated drug money, and retaliation against a witness.

**Mark Springer**, who replaced Brewer, left in February after less than a year in the job. The borough has been without a chief since that time.

Mayor **Wilbert Young** said Dwyer's direct knowledge of the area made him a natural choice for the post. Dwyer also aced a 45-minute "in-basket" test during his final job interview, which sold Councilwoman **Pat Baker**, chairwoman of the personnel committee. "This is extremely important to me, because if you can't prioritize, you should remain a patrolman," she told *The Pittsburgh Post-Gazette*.

Comdr. **Cheryl Doubt**, who was Dwyer's boss when he worked on Pittsburgh's South Side, said his academic prowess and hands-on law enforcement experience will serve him well as chief.

"Rich has a thorough knowledge of law and police contracts," she said. "He's very good at policy development and is also supportive of his officers."

## Bidding "aloha"

**Kam Fong Chun**, the actor and former Honolulu police officer who played Detective **Chin Ho Kelly** on the television series "Hawaii Five-0," said aloha to this mortal coil last month at the age of 84. The cause of death was lung cancer.

Chun, who legally changed his name, shortening it to Fong, served as a real-life Honolulu police officer for 16 years before quitting the force in 1959. After appearing in local TV and movies, including "Gidget Goes Hawaiian," he became a regular on "Hawaii Five-0" from 1968 until 1978. When the CBS program went off the air in 1980 after 12 years, it was the longest-running police show in television history.

"On the set he could seem very stem



Kam Fong as he was most familiar to many people — from the opening credits of "Hawaii Five-0."

and gruff, but off the set he was a very lovable guy who laughed a lot... I think he did more episodes than anybody except Jack Lord," said **Eddie Sherman**, a journalist who met the actor during the program's run.

Fong experienced perhaps more than his share of adversity. According to his son, **Dennis Chun**, his father's first family, including a wife, 4-year-old daughter, and 2-year-old son, were killed in 1944 when two B-24 bombers collided and crashed in the Kalihi section of Honolulu. "Twelve people were killed and my father had to carry his daughter from the house," said Chun.

As a child, Fong watched his older brother burn to death in front of him, said his son. "They were painting the house and someone lit a match. My father had to take care of his mother, and four brothers and sisters after his brother died," Chun told *The Associated Press*.

In 1949, Fong married Gladys Lando and had a second family. She died in August.

"He had a lot of trials," said Chun. "To overcome adversity and still be able to make something of yourself says a lot about a person, and my dad was a special man."

When Fong left the show, his character was written out of the script by being killed during an undercover assignment. His dying words were, "It was all worth it."

## Providing cover

A member of the Pocatello, Idaho, Police Department with extensive military training in counter-terrorism, **Glen Boodry** was deployed this month as part of a cadre of U.S. soldiers who will protect Afghanistan leader **Hamid Karzai** — an assignment that could last from several months to several years.

"We're sorry to see him go for that period of time, but when the U.S. government needs you, you've got to go," said Police Chief **Ed Guthrie**.

Although much of Boodry's past military work remains classified, the detective served in the Gulf War and had worked in the Middle East conducting anti-terrorism operations. Karzai, who was elected president of Afghanistan in June, has been the target of numerous attempts against his life.

"And there will be more," said Boodry.

The Afghan capital of Kabul, he told *The Associated Press*, is out of control with murders, kidnappings and terrorist bombings. "This is a very dangerous assignment," said Boodry. "Much of Afghanistan is ruled by warlords and various terrorist cells that do not want President Karzai in power. These terrorists will go to almost any length to have him killed and removed from political power."

## God & country

To make sure they are following their own policy concerning sexual abuse by priests, the nation's Roman Catholic bishops this month appointed the FBI's third-highest-ranking official to head the newly created Office for Child and Youth Protection.

**Kathleen L. McChesney**, 51, was one of the bureau's first female agents and was in the initial wave of women hired as patrol officers by the King County Police Department in her hometown of Seattle. After joining the FBI in 1978, McChesney rose to second-in-command of its field offices in Los Angeles and Detroit, and became only the second woman to head a bureau field division when she was named special agent in charge of the Portland, Ore., office.

In 1999, the bureau put her in charge of its Chicago office, the fourth largest in the nation. And last December, Director **Robert S. Mueller III** chose McChesney to work at FBI headquarters as executive assistant director at the law enforcement division. The position was created after the Sept. 11, 2001, terrorist attacks to coordinate local and federal law enforcement efforts.

McChesney was selected for the new position from a field of 40 candidates by the National Review Board, a panel of prominent Catholic lay people headed by Oklahoma Gov. **Frank Keating**, who is also a former FBI agent. Her appointment was approved by the U.S. Conference of Catholic Bishops, and was announced three days after the bishops revised a policy on sexual abuse, amending an earlier plan after objections from the Vatican.

"She's had tremendous experience in a large organization ensuring com-

pliance with the rules and regulations of that organization," said **Robert S. Bennett**, a prominent Washington attorney who led the search committee.

At a press conference at the bishops' headquarters, McChesney, who is Catholic, said she believed that the Catholic Church has suffered due to the actions of a few. "I come from an institution in which we have suffered for the actions of a few," she noted, explaining that she was referring to spies discovered inside the FBI.

She said she saw her role as someone who would implement sexual abuse prevention programs and monitor compliance with the bishops' measures to remove sexually abusive priests.

The first report on such compliance, she said, should be out in about six months. The document will be based not just on self-reporting by local dioceses, McChesney said, but on "external auditing" as well.

## Dance fever

Perhaps better known to the polka-loving world as Jerry White, band leader and Detroit police officer **Gerald Wojtalewicz** was inducted this month into the Michigan State Polka Hall of Fame.

"I've been to banquets before, and usually there's about 500 people there," he said. "Being inducted wasn't really something I was striving for, but it's a great honor."

Wojtalewicz, 63, has been playing clarinet and alto saxophone with one polka band or another for more than 40 years. "I grew up with polka music," he told *The Associated Press*. "I listened to it on the radio, watched polka programs on TV, and saw polka bands play live at wedding receptions." It was happy, upbeat music that he wanted to be a part of, he said, from the time he was given his first harmonica by his parents.

From 1967 to 1979, Wojtalewicz was a member of the police marching and concert band. His first polka band was the Lackowski Trio, after which he joined **Bob Tenhusch's** Melody Makers Polka Band, later known as the Michigan Cavaliers.

He led the Cavaliers in 1972, when the band started playing more dates in the Detroit area, and performed on the Polka Joe and Waltzing Wanda radio program.

"As a polka music performer, the music is in your heart," said Wojtalewicz. "It's more than just looking at notes on a page. You play it with expression."

Lately, Wojtalewicz has been learning to play the button-box accordion. Although his group is semi-retired, he still plays with his son, **Craig**, who has his own band called Fanfare. Polka never goes out of style, said Wojtalewicz. "It will always be here."

## Road warrior

With homeland security, advancing technology and other challenges currently facing the Montana Highway Patrol, state officials believe they found the right person to head the agency in

**Shawn Driscoll**.

The 42-year-old Driscoll, a deputy chief with the MHP for the past three years, replaced **Bert Obert**, who resigned in October to take a federal airport security job.

"Colonel Driscoll has the experience and training to lead the patrol," said Montana Attorney General **Mike McGrath**. "Shawn Driscoll represents the new generation of leadership."

Topping the new chief's agenda will be adding more remote computer terminals to the patrol's fleet. Terminals are already in place in cars stationed in Yellowstone and Missoula counties, and Driscoll said he hoped to expand the technology to Cascade, Gallatin, Lewis and Clark, and Silver Bow counties. The devices will allow officers to prepare and submit reports directly from the field.

"We need to make sure our people are on the road as much as they can," he told *The Associated Press*.

Attracting and retaining qualified officers is another pressing concern. Although Montana's population has grown by 24 percent, or by more than 177,000 residents during the past 29 years, the size of the Highway Patrol is the same as it was in 1973 — 200 sworn members. And with the state facing a \$250-million budget deficit, he said his primary task will be to convince lawmakers not to slash the agency's already lean budget.

While his job is to provide information on the havoc that drunk drivers can cause, Driscoll said he would leave it to legislators to decide whether the state needs to toughen its DUI laws by lowering the legal blood-alcohol limit and banning open containers in cars.

"If you drink and drive, people get hurt and people die," he said.

## Blue blood

If anyone can follow in the footsteps of outgoing Scituate, Mass., police chief **Thomas Neilen**, it will be veteran officer **Brian Stewart**, according to city officials who swore him in last month.

The 55-year-old Stewart has been acting chief since August. A member of an old Scituate family with police blue in their veins, Stewart's grandfather, **Michael E. Stewart**, served as the town's chief for 23 years before retiring in 1949. His nephew and cousin, both named Michael, are members of the force. And the badge that Brian Stewart will wear belonged to his grandfather, who wore it in 1911 when he was chief of police in Bridgewater.

"Very seldom has the town made a decision so free of controversy," **Joseph Norton**, chairman of the Board of Selectmen, said of Stewart's appointment.

Stewart, who joined the agency in 1975 after serving in the Navy for four years, said he has no major changes in mind for the 29-officer force. "We've got a great department, and we've got great people working on it," he said. Any grant money that might come the agency's way, he said, would be used to boost community policing programs.

Neilen, a 58-year-old former New York state trooper, left the department in July after serving for 13 years. Stewart said his predecessor "is going to be a tough act to follow."



# Houston officials fear retirement tsunami looms

Despite financial incentives put in place years ago to dissuade officers from retiring en masse, Houston police and city officials are concerned that the department will lose hundreds of sworn personnel in 2004.

An internal survey of the agency found that as many as 534, a record number, plan to leave that year. If the figure is even half that, officials said, the HPD will be left facing a number of vacancies far above its annual average.

"Anytime there is that kind of loss of experience on a police force, it has a tremendous impact on the department," Randy Garner, director of the Criminal Justice Center at Sam Houston State University, told *The Houston Chronicle*. "There is always the potential to compensate by ramping up recruiting, but you can't underestimate the value of experience."

The exodus, which threatens to be three times that of recent years, also comes at a time when the city is experiencing a rise in crime, particularly rape and murder, which were up by 16 percent last year. Overall crime in Houston rose by 8 percent — faster than in the rest of the nation, according to the FBI's Uniform Crime Report.

As a number of law enforcement agencies have done, the HPD imple-

mented a deferred retirement plan, known as DRDP, which was aimed at the growing number of officers who were putting in their 20 years with the Houston department, then taking a job with another agency while collecting their pension. Instead, retirement-age officers are encouraged to stay by being allowed to draw a full salary while their pensions are funneled into accounts they can access when they finally leave. The department puts no limit on how long officers can work past retirement.

In Dallas, a similar program put in place eight years ago has proved so successful that the department has yet to experience the type of attrition now bedeviling Houston. Said Sgt. Andrew Davis of the personnel division: "When we got started, everybody said, 'In three to five years all of these guys will be gone and we will be right back where we started.' But the program has been too lucrative for people to quit," he told *The Chronicle*. "We have people retiring with \$400,000 and \$500,000 in the bank because of DRDP."

Other agencies have had varying degrees of success with the initiative. Philadelphia, facing the retirement of up to 500 of its 7,000 officers, is considering extending its DRDP program, created in 1999, beyond the end of next

year, said spokesman Cpl. Jim Pauley. The San Antonio Police Department is experiencing retirement rates that are twice as high as normal. Its DROP program allows officers to postpone retirement for three years. So far this year, 85 officers have left.

"Every department I have spoken with is faced with the same problem to some extent," said Assistant Chief Tyrone Powers. "We all hired a lot of officers in the 1970s when there were federal funds available and a big push to build departments."

That is one of the factors now driving retirements in Houston. Nearly half of its 5,400 officers — 2,300 — will have served at least 20 years by 2004. Another cause is a pay raise of 10 percent to 13 percent due in January 2004, which allows officers who retire anytime thereafter to collect pension benefits based on their higher salary.

While the department is preparing for a mass exodus, union officials contend that when 2004 comes around, fewer people will actually retire.

"The survey is an indicator to try to confirm what people are thinking, but we cannot say now what people will actually do," said Assistant Chief M.W. Thaler. "Even if this happens, they are not all walking out the door on the same day."

# Stayed organized may prove to be criminals' undoing

For many individuals, leaving home without their hand-held electronic organizer is as unthinkable as forgetting their keys and wallet. That habit has not been lost on law enforcement, as agents with increasing frequency seize suspects' Palm Pilots and other hand-held devices in the hopes of unearthing a treasure trove of useful evidence.

In a number of recent cases, a suspect's link to a victim, motivation or alibi has been determined by investigators reading their Palms.

"It's an alter ego," said Larry Liebrock, who teaches at the University of Texas at Austin and has been a consultant on a number of forensic cases involving hand-held devices. "It represents their aspirations, who their contacts are, where they spend their time, their tasks and objectives, and how they completed those."

Liebrock served as a consultant in an attempted homicide case that involved a man who planned his day around his victim's schedule. On his Palm device, the suspect kept detailed notes on the woman, along with his fantasies about kidnapping her, Liebrock said.

"He was going to capture this woman, tie her up and have his way with her," he told *The New York Times*.

Last month, San Jose police broke up an identity-theft ring after they used a search warrant to seize a Sony Clie belonging to 21-year-old Jose Torres, the man identified as the gang's ring-leader. More than 20 victims, along with their Social Security numbers and other personal data, such as bank account and credit card numbers, were listed, along with a to-do list that included a visit to a local office supply store to pick up materials for creating fake checks, according to police. An entry for Torres's parents' phone number, which read "Mom" and "Dad," cleared up any possible questions as to the device's ownership.

In San Diego, investigators working on the murder of 7-year-old Danielle Van Dam last February copied the contents of four computer hard drives and a Palm Pilot belonging to the man convicted in the girl's death, David A. Westerfield. And in Texas, a recent homicide case was solved when the assailant turned out to be someone listed in the victim's organizer.

"It was a close personal friend who did it for financial gain," said Amber Schrouder, director of forensics for

Parahen, an Orem, Utah-based firm, one of several around the country that help law enforcement to analyze and preserve evidence from hand-held devices.

Hand-held devices can also be used to commit crimes, say investigators. A government employee in Texas was caught using his Handspring Treo to transfer child pornography. Jamey Tubbs, a federal law enforcement agent who worked on the case, told *The Times* that when investigators pulled the suspect in for an interview, he had the device right in his pocket.

"We seized it right then and there," he said.

Unlike full-size computers, most people do not place encryption devices and passwords on their personal handhelds, said Schrouder. "If you went to their desktop machine they would have a good five to 10 passwords," she told *The Times*. "But when it came to their P.D.A. they felt it was so close to them that they didn't need it."

Personal organizers can also be useful in identifying bodies, a fact that was helpful to police in Virginia who came upon a decomposing body on the Appalachian Trail in March. While no other identification was found, a handheld was recovered that gave the name of its owner, a 55-year-old Maryland man who had shot himself.

"The natural consequence of the information revolution is that our lives are centered around processes and equipment whose sole purpose is to collect data," David Aucsmith, a security architect for Microsoft, told *The Times*. "These devices are all trying to make your life easier."

# Utah PD faces the facts as surveillance systems sits idle

What had seemed like a great idea at the time in West Valley City, Utah — the installation of a facial recognition surveillance system — has since become a well-intentioned mistake, as police and city officials try to figure out what to do with the software and cameras that have sat in a storage room since before the 2002 Winter Olympics.

"Nobody ever talked about who was going to staff [the monitors]," Assistant Chief Craig Gibson said in an interview with *Law Enforcement News*. "I think there were a lot of things that weren't thought out before they started putting equipment in, like what we were going to do with it after the Olympics."

The system, called FaceTrac, was developed by the Pennsylvania-based Graphcon Technologies Inc., or G-Tec, the same company that supplied the technology to organizers of the Super Bowl last year in Tampa Bay, Fla.

The system was touted as a way to increase security during the Winter Games, and West Valley officials had hoped that its implementation in their city would serve as a model for law enforcement worldwide. The system has the ability to snap pictures of thousands of people at once and measure 128 distinct facial characteristics. A database was to be created using the files of both federal and local agencies, ranging from terrorists to pickpockets.

Prior to the Olympics, many firms were offering to donate equipment in hopes of gaining some recognition, said Gibson. West Valley officials spent about \$18,000 of a federal law enforcement grant on the software, he said, plus an additional \$6,000 from city coffers.

But the Salt Lake Olympic Committee (SLOC) would not allow the equipment to be used in West Valley's E-Center, an ice hockey venue, because

FaceTrac's vendors were not official sponsors of the games, Gibson said. Since that time, the system — three monitors, some cameras and several hard drives — has sat idle.

Police and technicians from the company worked round the clock installing the equipment and building a database. Therein lay another problem, said Gibson.

"We didn't have a good database to hook into," Gibson told *LEN*. "That's the key to one of these things. It's just like with AFIS. If you've got a fingerprint identification system that doesn't have a database, it's not really valuable and that's kind of what we've run into with FaceTrac. We don't have a solid database to do the comparisons to."

And should there come a time when the city can get the system up and running, there is the chance that by then the technology would be outdated.

# With fitness as the goal, Chicago cops say "Show us the money"

Chicago police officers are finding a \$250 bonus for passing a voluntary fitness exam to be only slightly more enticing than the uniform pin that the city previously offered for taking the test.

Only about 2,600 of the force's 13,600 members have so far taken up the fitness challenge, which is part of the union contract. Ever hopeful, however, Mayor Richard M. Daley has proposed an allocation of \$2.5 million — enough to reward 10,000 officers — to fund the initiative next year.

"The longest journey begins with the first step," police spokesman Pat

Camden told *The Associated Press*.

Chicago is just one of a number of jurisdictions around the country that have tried to reward police for getting and staying fit. Unlike many of them, however, Chicago has no stick behind the carrot.

For example, the Hanover County, Va., Sheriff's Office last year required deputies to pass an agility test by 2004 or face termination. The agency said it would give employees three chances before the penalty kicked in.

The Florida Highway Patrol troopers' union objected earlier this year to the inclusion of an "appearance" cat-

egory in the agency's annual performance evaluations. Troopers who are overweight by 15 pounds, the union claimed, risk losing a \$500 bonus. The FHP is the only major state police department that uses a weight restriction policy, according to a report in *The Miami Herald*.

But in Chicago, the department is trying to coax its officers into taking better care of themselves. To get the bonus, they must run a mile and a half, bench press most of their body weight, do sit-ups and demonstrate their flexibility. Performance standards are based on age and gender.

The agency hopes to reduce health care costs for diabetes, heart disease and other illnesses, said Camden.

Al Amos, a field training officer who turned 59 in October, took the test in October to set an example for his younger colleagues. He pressed 164 pounds and completed the run in 16:15 — just under the 16:21 time limit for officers age 50 and older.

According to Sgt. Jackie Campbell, who helped supervise the test, most officers flunk out on the run. "A lot of people don't get as much cardiovascular activity as they should," he told *The AP*.

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# To centralize, or perhaps not

## New Orleans, Kansas City reconfigure homicide squads

They are two different agencies, with two different sets of circumstances prompting change, but both the New Orleans and the Kansas City, Mo., police departments are revamping their homicide divisions.

In New Orleans, police officials have shifted approximately 30 detectives back to headquarters from district command posts. The move reverses the decentralization plan implemented under former superintendent Richard Pennington, who argued that dispersing investigators throughout the city would give them better access to witnesses and informants, as well as making commanders more fully accountable for crime in their districts.

It did not turn out that way.

"In doing a review, we saw that we only had three detectives and one sergeant [out of roughly 30 detectives] assigned to the district investigative units that had any extensive homicide experience," said Assistant Superintendent Gerald Ursin.

A recent study by the Metropolitan Crime Commission found that during a 12-month period between 1999 and 2000, only four convictions were won out of 32 murder arrests. Only seven of those cases were even accepted for prosecution, the commission said, due to problems with evidence and witnesses.

The department has also decided to keep homicide investigators focused on murders, and not "blurring" the line's by assigning them to other kinds of assaults, such as nonfatal shootings.

Ursin and other officials told The New Orleans Times-Picayune that it takes years of experience before homicide detectives become good investigators. And rapport between officers and investigators can be achieved by requiring detectives to attend weekly CompStat meetings at district stations, officials said.

Although the shift has not been declared permanent and will be re-evaluated every six months, the detectives have been transferred back to headquarters, not temporarily reassigned.

Detectives working on a headquarters-based

cold-case squad set up by Pennington will be slipped back into rotation, or will accompany detectives to crime scenes and be made available throughout an investigation.

"It's not a reversal," said Lt. David Benelli, president of the Police Association of New Orleans. "It's an example of the department learning as you go along, and taking the positive steps necessary to improve."

In Kansas City, the department's homicide unit cleared 77 percent of its cases between 1976 and 2001, a figure well above the national average of 62.4 percent, according to FBI statistics.

But Chief Rick Easley decided to form a new squad in October after an audit found that evidence or property in eight cases had been mistakenly lost or destroyed. The unit will try to determine whether anything was missing in 858 murders dating back to 1976, as well as trying to solve old cases.

"I think this is definitely warranted and a good use of manpower," said Stacey Daniels-Young, president of the Board of Police Commissioners. "Anything we can do to make the public feel more secure is important," she told The Associated Press.

It was the focus on investigating old cases that convinced the board, said Daniels-Young. If missing evidence is found along the way, "we'll deal with that as it comes," she said.

The audit, conducted in May, looked into 57 homicides in which the suspect had been charged and was awaiting trial. It found evidence mistakenly destroyed in three cases, and lost in four others. An eighth case was initially called a suicide, prompting police to hold on to evidence in suicides longer.

All six of the recommendations resulting from the audit have been implemented or addressed, said Capt. Christine Laughlin, who supervised the process.

Easley said that recent homicides will be checked first and those with the best chance of being solved will get the most attention due to the unlikelihood of police being able to look into all 858 cases thoroughly.

## Amid rising violence, Seattle to disperse its gang unit

The Seattle Police Department will break up its gang unit, along with other specialized squads, and distribute their investigators throughout the city's districts as a way of enhancing the agency's emergency-call response.

Under a plan unveiled by Mayor Greg Nickels during a preview of his 2003 budget in September, police services will be increased, along with accountability, by making precinct captains the chiefs of their own quadrants in the city. In addition, community policing sergeants would be assigned to precincts to work on solutions to long-standing neighborhoods problems. Detectives would report to captains rather than to headquarters.

The reorganization was at least partly fueled by a \$150,000 study which found the department's use of specialized investigative teams ineffective at fighting crime. Among the dozens of recommendations made by the study were that patrol beats be redrawn and schedules rearranged to better align with emergency calls. There is "no rationale" beyond historic practice, the study said, for the division of the agency's system into 64 patrol beats.

Prepared by Public Administration Service Associates, a Virginia-based consulting firm, the report examined policies and procedures practiced over the past decade.

"It's not a script, but it is kind of a cornerstone tool to aid our analysis," said Deputy Chief Clark Kimerer, who worked with the consultants. "It was written as a guidepost for the police department."

While many of the study's recommendations will be explored over the next few years, its most immediate impact will be felt in the redistribution of detectives from the agency's various specialized units, such as gang and narcotics.

The breakup of the 20-year-old gang unit has already drawn criticism. Gang violence in Seattle has been rising sharply, with detectives having investigated 77 serious gang crimes in the first quarter of this year, as compared with 52 during the same period in 2001, according to

Assistant Chief Cindy Caldwell, who oversees the squad.

"Decentralizing the gang unit will not work," Det. Jim Dymont Sr., a 31-year veteran, said in an interview with The Seattle Times. "The gang unit works on organized crime. It's a cohesive unit. There will be less information sharing and fewer arrests. I don't care what the chief says; this is the reality."

But Caldwell believes that since gang violence has not been stopped, it might be time to try a new method. "We're still going to be working on the gang problem, just in a different way," she told The Times.

Plans for the police department also include the creation of a fifth precinct and the elimination of 27 sworn officers' jobs, mainly through attrition; other cuts will come from the civilian ranks.

"I believe the public isn't going to see any changes in service; we are still a big police department with a lot of resources," said Chief Gil Kerlikowske.

Other recommendations, as reported in The Times, included flagging the records of career criminals so police will know who they are dealing with when they come into contact with them. The study noted that a small percentage of offenders account for a large share of Seattle's crime.

With more than 95 percent of burglar alarm calls turning out to be false alarms, the city should require private security firms to verify legitimacy before sending police to respond, the study said.

Also, Seattle should reconsider its "intelligence ordinance," a 1979 law that limits the department's ability to spy on and gather information about potential terrorists. And in its efforts to combat sexual solicitation, new tactics might include requiring prostitutes to undergo drug and alcohol treatment, and forcing them to be tested for sexually transmitted diseases. Local weekly newspapers, the study said, could be convinced to stop running ads for "massage parlors and businesses which are just a front for prostitution."

## No more handouts:

# Oklahoma sorry to see military surplus program end

A federal program that provided Oklahoma law enforcement with military surplus equipment may have been a bear to administer, but it did provide a service to smaller agencies, say local and state officials, who were sorry last month to see the initiative scrapped.

The Law Enforcement Support Office program was just too complicated, said Tom Jaworski, the director of state purchasing. Coordinating the program fell to the state because the federal government did not want to be involved with hundreds of police and sheriff's agencies looking for vehicles, Kevlar vests and helicopters.

"Believe me, it is fraught with problems," he told The Associated Press.

In the best of both worlds, the program would have made the surplus equipment available to agencies, particularly smaller departments, with a minimum of paperwork. That was not the case, however, agreed Jim Cox, executive director of the Oklahoma Association of Chiefs of Police.

"They don't have the personnel and experienced resources to go through all the hoops to obtain these things," he told Law Enforcement News. "If they are available, useable, serviceable, cer-

tainly that's a benefit to smaller agencies. The problem always has been the hoops that have to be gone through, and the lack of full understanding and ability of smaller agencies to do that."

According to Jaworski, the state must complete compliance audits on military arms and equipment to ensure they are going to legitimate law enforcement agencies. The state purchasing office arranges for the transfer of pistols and rifles from the military to police and sheriff's departments. There is the fear that other types of surplus materials could wind up with nonqualifying owners, at auction or in private hands, he told The AP.

Jaworski's agency asked the Department of Public Safety to evaluate weaponry and other military surplus to verify the needs of individual departments, but the agency will not do that, he said.

"For one reason or another, the commissioner opted not to do that," said Lieut. Chris West, a spokesman for DPS Commissioner Bob Ricks.

The DPS itself owns two used military helicopters, but West said they were acquired through an Arizona sheriff's department and the Missouri State Patrol.

Ending the surplus equipment program, noted Woodward Police Chief Harvey Rutherford, who is president of the state chiefs' association, will be a particular hardship for those agencies that have relied on military surplus and do not currently have a budget for purchasing such equipment. Although his department has not received any goods

from the program in a number of years, he told LEN, it still uses vehicles and some other minor items obtained through the initiative.

"It's always government paperwork — which I understand," Rutherford said. "Accountability is a problem and it creates a problem for some of your smaller agencies. You have to have a

## Ohio HP unveils system to give cops a heads-up on threats to their safety

The Ohio State Highway Patrol has unveiled a new information system that will give its troopers, as well as county and local officers, the advantage of knowing whether or not a person they have stopped has a previous conviction for harming an officer, or has made substantiated threats against police.

Called the Taylor Alert, such information will be disseminated through the statewide Law Enforcement Automated Data System, said Highway Patrol Lieut. Gary Lewis. LEADS provides police with driving records, criminal histories and vehicle information.

"It is for law-enforcement use only,"

he told Law Enforcement News. "It is not something that people can be stopped and detained for solely on that information."

The Taylor Alerts will remain in LEADS until they are removed, but they must be re-validated every 30 days, said Lewis.

The Taylor Alert was named for Massillon, Ohio, Police Officer Eric Taylor, who died on Aug. 9 after exchanging gunfire with a man during a traffic stop. A trooper had tried to stop Donald Matthews for speeding, but the 61-year-old man fled and ended up in a shootout with police at a construction

site. Several years prior to the incident, Matthews had made substantiated verbal threats to federal authorities against law enforcement — something law enforcement officials did not know at the time he was stopped.

Although it is not clear whether the Taylor Alert system would have made a difference in this case, as Matthews was driving a vehicle registered under his wife's name, Massillon Chief Mark Weldon said that having more information always helps.

All agencies that utilize LEADS will be able to access the information from the Taylor Alert, said Lewis.



# SDPD's Drag-Net puts the brakes on street racers

Using a variety of methods, including a delayed response aimed at inducing ripples of paranoia within the city's illegal drag-racing community, the San Diego Police Department's street-racing enforcement unit has been able to reduce the number of cars speeding through the city from 1,200 to just a fraction of that in the space of a year.

The Drag-Net unit is believed to be the only one in the nation that devotes itself full-time to the problem of street racing. It was launched in 2001 with a \$400,000 state grant administered through the California Office of Traffic Safety.

Sgt. Greg Sloan, who heads Drag Net, was intentionally vague about the unit's staffing and tactics, but he did say that the unit uses plainclothes officers to infiltrate the crowds at races, acquiring information as to who the racers are, what they are racing and how often. After compiling that information, the unit gets arrest warrants on the racers. But they are not served right away.

"We end up contacting them three weeks, or 10 months, later, at their houses," he said in an interview with Law Enforcement News. "We impound their cars, we arrest them out of their house, and we bring the media along. It lets them know that although they went home after the race was over and they thought they got away with it, they didn't get away with it."

The method is effective because it

makes the other racers wonder if they, too, are about to be arrested. It also gets the families involved, he said.

"All this time, the parents, the brothers, the sisters who knew this was occurring and just condoned it — they should have been paying attention to it," said Sloan. "This way, it brings a little education factor to them."

And the media educates the general public about a problem that goes virtually unnoticed.

"One of the things we found in the early stages of this is, no matter what community you ended up going into, whether it's ours, or Los Angeles, or New York or Houston, about 95 percent of the community has no clue what's going on," he said. "They don't know when it's happening, where it's happening or if it's happening at all...how many people have died because of it, how many injured."

Since the 1960s, Southern California has been a mecca for illegal racing, with the problem particularly severe in San Diego and Los Angeles. As recently as last month, drag racing took the lives of two 19-year-olds, Shanna Jump and Brian Hanson, who were riding in a subcompact Geo Storm that was broadsided by a 1968 Plymouth Barracuda that came barreling up a street in Lemon Grove. Jump and Hanson were the 12th and 13th people to have been killed in the San Diego County due to street racing so far this



They're still a danger to the public, but street-racing vehicles are dwindling on the streets of San Diego.

year, with another 20 injured.

The racer, George Waller, a 32-year-old school janitor and father of two, was seriously injured in the crash. Arraigned this month from his hospital bed, he pleaded not guilty to murder charges, the first-ever to be filed in the county in connection with an alleged drag race.

Of Waller's vehicle, Deputy District Attorney Blaine Bowman said, "This is a racing car, that's what it is. It's unusual anytime to charge a driver with murder. But there are some cases that are so egregious, such as this one, where the murder charge is warranted."

The racer of the other car, a Chevrolet El Camino, has not been found.

According to Stephen Bender, a professor of public health at California State University, San Diego, and a principal investigator for racelegal.com, a legal racing organization in the region, 39 people are killed or seriously injured for every 1,000 who illegally race.

"In my 35 years of public health practice I have never seen a public health problem of greater magnitude," he said. "It is off the scale."

The university's "Racelegal.Com" program provides racers with 30 annual one-eighth-mile drag racing events at San Diego's Qualcomm Stadium, a legal alternative that the police department supports.

"Those of us who have been close to this have been predicting this forever," Bender told The San Diego Union. "You can't call it an accident," he said of the two recent deaths. "It was totally predictable and totally preventable."

The idea for the Drag-Net unit came about in 1999 after a meeting between San Diego Police Chief David Bejarano, a dozen or so officers and the director of the state traffic safety office, said Sergeant Sloan.

"How he sold it to us was that he knew San Diego always came up with new and innovative ideas," he said of the OTS director. "He said, 'I want you guys to come up with a new and innovative idea and apply for a grant.'"

Over a six-month period, Sloan put together a proposal, the most significant portion of which had to do with creating the full-time, dedicated Drag-Net squad.

During its first eight months, Drag-Net reduced the number of street racing vehicles from 1,200 to just over 200. Since the first week of October of this year, said Sloan, that number has fallen to just 10 or 15.

The unit has also been instrumental in creating new laws. One of the most effective has been a spectator ordinance that authorizes police to issue misdemeanor citations or make arrests at drag

races. Initiated in October, the measure has reduced the size of the crowds dramatically, he said.

"We'd have one out of 10 racing, that's about average," said Sloan. "The rest were watching. But the racers would not race until crowds congregated," he said. "As we started to identify the problem, we started to ask if there weren't crowds, would they race? We ended up determining that without the crowd, these folks aren't going to race."

The number of spectators has shrunk to nearly nothing, said Sloan. "It's difficult to find now," he said. "Before, they used to be so large you could practically see them with satellites."

Spectator ordinances have been initiated in Ontario, in Los Angeles County and city, and in Lemon Grove and La Mesa, Sloan said. Most municipalities in San Diego County will have such a law on the books next year.

Another strategy that has been effective is the block-in, he noted. Police block in large groups of racers, identifying them and making arrests. Then they hand out flyers to every person there, perhaps as many as 800 or 900. Officers also document every car there, and send the flyers to the homes of the registered owners. Often, these vehicles are registered to "mom and dad," he said.

## How are we doing? Tulsa PD wants to know

Tackling an old objective with a new approach adapted from the retailing and marketing industries, the city of Tulsa has hired a local firm to conduct an audit of its police department, in an effort to determine what various groups think about the agency's "brand."

The \$71,000 survey will base its findings on interviews with members of Tulsa's black and Hispanic communities, the general population and local media, said David Littlefield, president and CEO of Littlefield Inc., which will conduct the audit.

Funding for the project will come from the city's share of a federal local law enforcement block grant.

An audit of a public agency, Littlefield told The Tulsa World, is not dissimilar to those conducted in the private sector. "What we're looking for is what the predominant core of what that brand represents or what they want that brand to represent," said Littlefield. "Every entity has a brand or representation. It has a perception. It has a reputation."

The idea of a brand audit has not sat well with all observers, however. Said former City Councilor Roscoe Turner: "If they're trying to get everybody together, running a survey isn't going to do it, as far as I can see."

At the same time that the audit is being conducted, the city is preparing to defend itself against an 8-year-old class action lawsuit filed by a group of black police officers, alleging discriminatory hiring and management practices.

Earlier this month, Mayor Bill

LaFortune proposed a settlement to the lawsuit that included denial of improper behavior by police, and the replacement of a monitor with investigative powers with one who is city-appointed who would act as an agent of the court.

The proposed settlement would also continue Tulsa's policy against racial bias in policing. Deputy Mayor Steve Sewell told The World.

Data would continue to be collected, but it would remain confidential, said LaFortune. If data "is collected for purposes outside of compliance, I have real concern about exposing officers to that type of liability," he told The World.

LaFortune said he puts much credence in the department's intention to seek accreditation through the Commission on Accreditation for Law Enforcement Agencies. That process would begin 120 days after entering into a settlement decree.

An earlier agreement proposed in April under former Mayor Susan Savage was rejected in August by U.S. District Judge Sven Erik Holmes because LaFortune said he could not fully support it.

Turner, who had tried to settle the suit before leaving office, said: "You can spend \$71,000 and then you can spend another \$71,000 and then you can go to trial and spend another million and a half, and you haven't accomplished anything. The logical thing to do is for the FOP [Fraternal Order of Police], black officers, mayor and anyone else to sit down and lock the door and come up with something we can live with."

**Good News!**

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# Voters say 'no' to letting jurors ignore law

South Dakota voters in November confronted the unofficial practice of jury nullification and soundly rejected a ballot initiative that would have made the practice official, by a margin of better than 3-to-1.

Constitutional Amendment A, as the measure was called, would have allowed criminal defendants to argue the merits, validity and application of the laws under which they were charged. Jurors would then have been allowed to decide whether those laws were being justly applied in individual cases.

The proposed amendment was prompted by the case of a 38-year-old quadriplegic, Matthew Ducheneaux, who was caught smoking pot at a jazz festival in Sioux Falls. Ducheneaux argued that marijuana relieved the spasms he suffered, and that the state's drug laws were unfair to medical users. While jurors said they were reluctant to find him guilty, they had no choice.

Proponents pointed to other cases which they said called for the option of jury nullification. These included a man convicted of animal cruelty for using a cane against a dog that was attacking him, and parents found guilty of child pornography for taking photos of their

youngsters in the bathtub.

"We found out the depths to which the lawyers would go to avert a challenge to their authority and ability to make and administer the law," said Bob Newland, a Libertarian who spearheaded the drive for Amendment A.

Newland, an unsuccessful candidate for state attorney general, noted the number of attorneys' groups that came out in opposition to Amendment A. They included South Dakota's Trial Lawyers Association, its Criminal Defense Lawyers Association, and State's Attorney's Association, among others.

"Sounds like lawyers to me," he told The AP.

While opponents argued that anyone who did not like certain laws could ask the Legislature to get rid of them, Newland called that option impractical.

"The Legislature passes laws much faster than we can repeal them," he said. "We're being swamped by the magnitude of the law code. What new laws can we possibly need?"

But the measure's rejection is "a crystal clear statement that all people, regardless of who they are, what they do, or where they live, will be treated the same under South Dakota law," said

Tom Barnett, secretary-treasurer of the state bar association.

Barnett, a former prosecutor in Haakon County, said jury nullification would have allowed juries to reach different verdicts for people accused of the same crimes.

"If one juror is going to decide what laws he or she is going to honor, the average defendant comes out way behind...on such things as presumptions of innocence, the burden of proof on the prosecution, proof beyond a reasonable doubt and the right against self-incrimination," he told The AP.

Passage of the jury nullification measure would have set South Dakota apart from other states, the bar association said. While remaining on the books in Indiana, Georgia and Maryland, none of them use the practice, which fell into disfavor after being frowned upon in an 1895 U.S. Supreme Court decision.

In an interview with Law Enforcement News, James Levine, the dean of graduate studies at John Jay College of Criminal Justice, noted that the Kansas legislature passed a jury nullification law during the 1970s in response to Vietnam War protest cases. There was a feeling, he said, that jurors should

have the opportunity to acquit if they thought the defendants' actions, while illegal, did not deserve punishment. The statute was repealed two years later.

History, he noted, is full of examples of jury nullification. Perhaps the most famous is that of newspaper publisher John Peter Zenger, who was clearly guilty of libel under the British laws that governed New York during the Colonial era. The jury acquitted him nonetheless.

"That's always considered a noble milestone in American history in favor of freedom of the press, but it was freedom of the press occasioned by jury nullification," Levine told LEN. "In reality, if it is to have any meaning, it has to be a purposeful decision to disregard either the law or the evidence because acquittal seems more justifiable than a conviction."

While the O.J. Simpson murder trial is often cited as an example of jury nullification, Levine contends that to view it as such stretches the concept considerably. "That was simply a group of jurors who saw the evidence, measured it against a standard of reasonable doubt, in a very different way from others," he said. "But it was not the pur-

poseful letting go of someone they thought was a murderer. They weren't convinced."

By and large, Levine said, juries are attentive to judges' instructions. One view holds that if a jury feels it has every reason to acquit, it will do so without any of the type of instructions that would have come under a law such as that proposed in South Dakota. Another posits that jurors should have the same type of latitude in special cases that police, prosecutors and sentencing judges utilize to moderate the impact of a law, Levine said.

In Indiana and Maryland, juries have the right to make decisions on the meaning of the law. While judges should be heeded as major sources of advice, according to those states' constitutions, jurors make the final determination.

"Studies have shown it hasn't made one bit of difference," said Levine. "Jurors are very much law oriented and try to follow the law. Having said that, the law often leaves ambiguity and where there's ambiguity, jurors often rely on their common sense of equity to decide the meaning of law. But if the law is pretty clear, they're pretty obedient."

## Not much of a bargain:

# Tribal justice frustrated by deal with feds

An arrangement with the federal government that allows police of Wisconsin's Menominee Indian Tribe to work jointly with the FBI is the same system, tribal officials say, that frustrates efforts to impose short-term detention on criminals, which they feel could have more rehabilitative value.

Located in Keneshaw, the tribe is the only one in the state that has a dual criminal justice system, and the only one that is federally recognized. After fighting to undo a 1954 agreement which disbanded the tribe in exchange for a modest amount of money and land for each member — a settlement worked out after the Menominee won a federal lawsuit — Congress restored it to its original state in 1975.

What that meant was that unlike most tribes in the United States, which are subject to state law enforcement with criminal and civil jurisdiction within the borders of their reservations, the Menominee, along with 500 other tribes nationwide, can handle their own criminal offenses.

"For our tribal court, we don't make the distinction between misdemeanor and felony," Police Chief Keith Tourtillot told Law Enforcement News. "What makes the distinction is the court is not allowed to [impose] sentence any greater than \$5,000 or one year for a single incident."

Tribal court, said Tourtillot, gives him the ability to use whatever local services are available to deter an individual's behavior during time served in the reservation's short-term detention facility. But that approach is not feasible for long-term sentencing; such inmates are basically detained in their cells with little if anything in the way of exercise or other programs.

"The only other vehicle we have is through the federal Department of Corrections where we can remand an individual over to the United States with the intention of obtaining rehabilitative

services," Tourtillot said. "The big hole in this" is that the tribe loses the ability to obtain such services unless it decides to take a situation federal — something officials are not always keen to do.

For example, said Tourtillot, tribal law enforcement might capture a car thief who could get more than a year in prison if the case is turned over to federal jurisdiction.

"We're really more interested in not sending that person a couple of states away," he said. "We're hoping to get the person sentenced locally, within the state, with the idea of getting rehabilitative services targeted toward that individual. These are the types of things states or other local jurisdictions can do, but we cannot. It's either mini or max

— there is no in-between."

Yet the tribe does enjoy a partnership with the FBI, although that too has its downside. While it means having the expertise of federal law enforcement at its disposal, it can take hours for agents to reach crime scenes. And often, much of the work is done before federal agents even get there, noted Tourtillot.

"In almost every case, truthfully, we've already caught the bad guy, even if it is a major felony case," he said. "In almost every case of homicide, aggravated assault and those types of situations, we already have the guy in our detention within five to 10 minutes."

Menominee tribal police investigators are trained and certified by the federal government at its Glynnco, Ga.,

training facility. While the tribal police respond to about 1,100 calls per month, the FBI investigates between two and 10 incidents during that time. The tribal force itself has approximately 28 patrol officers and another dozen or so more who deal with detention for a population of some 4,300.

"We're kind of fortunate here on this reservation," said Tourtillot. "Our tribe invests heavily, they match dollar for dollar, for law enforcement services with the federal government."

Joseph Martin, the chief tribal judge, noted that offenses that fall above the misdemeanor line but below the level of gross felony are often passed over by the government.

"A closer presence of the FBI and

the U.S. attorney's office, I think that will help," he told The Milwaukee Journal Sentinel, referring to a new federal court branch in Green Bay, about 45 minutes away.

There is also the issue of drunken driving, something which the tribal court cannot effectively punish because it does not have the authority to revoke licenses, Martin said. Moreover, the FBI can only step in if someone has been seriously hurt or killed. Having state involvement, as well as federal, would be welcome.

"There's a reluctance to report these matters to the state," he said, "which in turn makes the state think we don't have a drunk driving problem. We have a massive problem."

# War on terror may give the military an escape hatch from anti-drug duties

A reluctant partner in the war on drugs to begin with, the American military is now examining where to cut back its involvement so as to focus its resources on the war on terrorism, according to Defense Department memos and interviews with current and former Pentagon officials.

In a memo this summer from Deputy Defense Secretary Paul D. Wolfowitz to senior uniformed and civilian officials, the Pentagon had "carefully reviewed its existing counter-narcotics policy" because of "the changed national security environment, the corresponding shift in the department's budget and other priorities, and evolving support requirements." The Pentagon, said Wolfowitz, will focus on those counter-narcotics programs which can do double-duty in counter-terrorism.

This year, the military spent a reported \$1 billion on drug-related missions, primarily in the Andean region of South America and in Southeast

Asia, out of a total federal outlay on the drug war of \$19 billion.

Congress ordered the Pentagon to begin a counter-drug mission in 1988 when a surge in cocaine trafficking prompted calls for harsher measures. Some lawmakers continue to find military intervention necessary. Said Representative Porter J. Goss (R-Fla.), chairman of the House Select Committee on Intelligence: "Terrorism is the highest priority, but drugs are still insidious.... Every time [military officials] bleed off assets, it just opens up the drug corridors again."

Some have speculated that the war on terrorism has given the military the out it was looking for in backing away from the drug war. Prior to becoming Defense Secretary, Donald H. Rumsfeld described as "nonsense" military efforts to thwart drug trafficking. During his Senate confirmation hearing in 2001, Rumsfeld said that narcotics were "overwhelmingly a demand"

problem which could only be stopped when Americans refrained from using drugs. The anti-drug mission, he said, was better handled by civilian agencies.

Former defense officials told The Los Angeles Times that a study of counter-narcotics missions by the Pentagon comptroller had recommended paring the effort. Rumsfeld has not as yet named a permanent assistant defense secretary for special operations and low intensity conflict to oversee that initiative.

Pentagon counter-drug chief Andre Hollis told The Times that the department wanted to retain those aspects of the program that worked, but its "top priorities now are to defend the homeland and to win the war on terrorism."

Hollis called the number of separate sub-programs which make up the military's counter-narcotics mission "surreal." When he first came to the job in August 2001, Hollis said his first order of business was a "bottom-up re-

view" of the 178 initiatives so that the Pentagon could distinguish where it is effective in combating narcotics trafficking, and where it is not.

Even a high-profile, anti-drug trafficking program based at Fort Bliss, Texas, Joint Task Force 6, may see changes in light of Wolfowitz's memo. Although the unit, which conducts counter-drug reconnaissance missions, will not be dismantled, it will be reviewed, said Hollis.

Reports that it is "going to go away...are just rumors," he told The Times. People are anxious about change, observed Hollis, but "9/11 changed everything for us. We need to look at the collective good."

Whenever possible, he added, intelligence-gathering equipment should be used for dual purposes. If a National Guard helicopter is flying over the California-Mexico border, it could be looking for terrorists as well as drug activity, Hollis said.



McHugh:

## Defense-oriented law — a case for reversal

By Donald J. McHugh Jr.

This October, Judge Gerald Harris of the New York City Criminal Court ruled in *People v. Vincent Cooper* that a police officer's forcible pinching of a motorist's cheeks to determine if evidence is being destroyed "is an intrusive action" and a "violation of a defendant's Fourth Amendment protection against unlawful search and seizure." This despite overwhelming admitted direct and circumstantial factual evidence to the contrary.

This decision can and should be overruled, as the police acted well within the limits of Fourth Amendment protections. The legal reasoning on which the suppression of evidence was based is part of an ever-growing trend of defense-oriented legal reasoning that seeks to prevent even minimal and reasonable use of force by the police. And, as important, Judge Harris's decision is dangerously ignorant of the realities facing joint police and community efforts to eradicate drug dealing in New York City.

### The Facts of *People v. Cooper*

New York City Police Officer Kevin Paynter was on routine motor patrol in a marked police car. He observed a car illegally parked beside a fire hydrant, in a drug-prone location. Without leaving his car, Paynter shined his flashlight into the defendant's vehicle. The defendant looked at

(Donald McHugh Jr., Esq., is a 17-year veteran of the NYPD, attended the City University of New York Law School, graduating with a J.D. degree in 1999. He is a currently a lieutenant assigned to the 52nd Precinct in the Bronx.)

"Compared to a (constitutionally permissible) needle stick to withdraw blood evidence at a hospital, a 'pinch on the cheeks' search to seize illegal evidence is less intrusive."

the officer and threw a bag of marijuana to the floor of his car. The officer exited his car, walked up to the passenger side of the defendant's car, looked into the car and saw the clear zip-lock bag containing a green leafy substance on the floor. The officer asked the defendant for his license and asked what he was doing in the area. When the defendant did not answer the question, but only mumbled, the officer asked him to open his mouth. When the defendant did not do so, the officer forcibly opened the defendant's mouth by pinching his cheeks. Four bags of marijuana came out and the defendant was placed under arrest.

The defendant was charged with attempted tampering with physical evidence, criminal possession of marijuana in the fifth degree and unlawful possession of marijuana. A Mapp hearing was held before judicial hearing officers, who recommended that a motion to dismiss the evidence be denied.

Commenting on the officer's veracity, the court would later state: "The record provides a basis for concluding that the officer has 'substantial expertise' and was a credible witness." The court accepted the findings of the hearing officer that Paynter acted properly when he shined his flashlight into the illegally parked car and saw the defendant throw the marijuana to the floor. Such

action, the court held, "does not constitute an unlawful search," and accordingly the defendant's arrest was lawful, the bag of marijuana recovered from the floor of the car was admissible and the motion to suppress the marijuana was denied.

But the court did not stop there. Judge Harris further held that "the defendant's failure to respond to the officer's questions and the fact that he mumbled, did not warrant the intrusive action taken by the officer to force open his mouth." Citing the U.S. Supreme Court's 1966 ruling in *Schmerber v. California*, he opined, "There was no clear indication that evidence could be obtained by such actions," and on that basis suppressed the four bags of marijuana from Cooper's mouth.

### Schmerber Requires a Reversal

In *Schmerber*, the late Justice William Brennan wrote: "In view of the substantial interests in privacy involved, petitioner's right to be free of unreasonable searches and seizures applies to the withdrawal of his blood, but under the facts in this case there was no violation of that right." (In *Schmerber*, the defendant was involved in a car accident and had alcohol on his breath. The Supreme Court permitted the seizure/search of the defendant's blood at a hospital where facts present reasonable suspicion for driving while intoxicated.)

Applying Justice Brennan's reasoning to the facts in *People v. Cooper*, one should logically conclude that the police had reasonable cause to believe that the defendant, Mr. Cooper, was in possession of marijuana. Therefore the arrest, the search and the seizure were lawful and the evidence admissible in criminal proceedings against him.

Surely when compared to a (constitutionally permissible) needle stick to withdraw blood evidence at a hospital, a "pinch on the cheeks" search to seize illegal evidence is less intrusive and/or at least similar in its level of temporary discomfort. The totality of the facts in *People v. Cooper* clearly meets, even exceeds, those in *Schmerber*. These include:

- ¶ The defendant was parked illegally, giving the police a reasonable belief that a traffic infraction had been committed.
- ¶ The auto was located in a drug-prone location.
- ¶ The officer was credible, with expertise in the modus operandi, nature and conduct of drug dealers.
- ¶ The presence of the defendant in a movable automobile.
- ¶ The officer's observation of a clear zip-lock bag containing a green leafy substance on the floor of the car.
- ¶ The defendant's unreasonable mumbling when he was asked to provide lawful pedigree and license information to the officer.
- ¶ The police officer's duty to prevent destruction of evidence.
- ¶ The police officer's duty to prevent the suspect from endangering his health by attempting to swallow what reasonably appeared to be illegal drugs.

Again, in *Schmerber*, addressing the reasonableness of the police officer's request for medical professionals to withdraw blood from an intoxicated driver, Justice Brennan wrote: "In view of the time required to bring petitioner to a hospital, the consequences of delay in making a blood test for alcohol, and the time needed to investigate the accident scene, there was no time to secure a warrant, and the clear indication that in fact evidence of intoxication would be found rendered

the search an appropriate incident of petitioner's arrest."

Substituting the facts in *People v. Cooper*, we conclude that in view of the time required to bring the defendant to a hospital, the consequences of ingestion of drugs and the need to prevent the destruction of evidence, there was no time to secure an arrest warrant. Furthermore, the clear indication that evidence of drug dealing and/or possession would be found rendered the search an appropriate incident of the defendant's arrest.

### Search Incident To a Lawful Arrest

Further grounds for reversal come under the theory that Officer Paynter had probable cause to arrest the defendant the moment he was observed throwing marijuana to the ground. At that moment, the defendant could be charged with unlawful possession of marijuana. Contemporaneous with a lawful arrest, as the Supreme Court has addressed in *Chimel v. California* (1969) and *Agnello v. United States* (1925), the police may conduct a search of the defendant's person and containers in his possession or immediate control. This is frequently referred to as the search incident to a lawful arrest.

As the Court spelled out in *Chimel*: "Police may make a warrantless search of a person pursuant to a lawful arrest in order to protect the police and prevent the destruction of evidence. The scope of the search is limited to those areas in which the arrested person might reach to conceal evidence or reach for a weapon."

When, as here, the police officer observed the defendant throwing a bag of marijuana to the floor of his car (which was illegally parked), probable cause to arrest the defendant existed. Pursuant to and contemporaneous with such an arrest, the police were permitted to search the person of the defendant, including the mouth cavity. In addition to the person, *Chimel* would permit the police to search the entire interior of the vehicle where the marijuana was being concealed and/or being destroyed.

There is no recognized higher expectation in privacy of the mouth when police officers have a reasonable belief that evidence is in the process of being destroyed concealed. Such a rule would permit criminals to escape prosecution merely by secreting contraband in the mouth. It is common knowledge in law enforcement that the sophisticated offender in such cases may destroy evidence in hopes that he will be charged with possession of marijuana, a misdemeanor, as opposed to criminal sale of marijuana, a felony that carries a more severe penalty.

### Exigent Circumstances

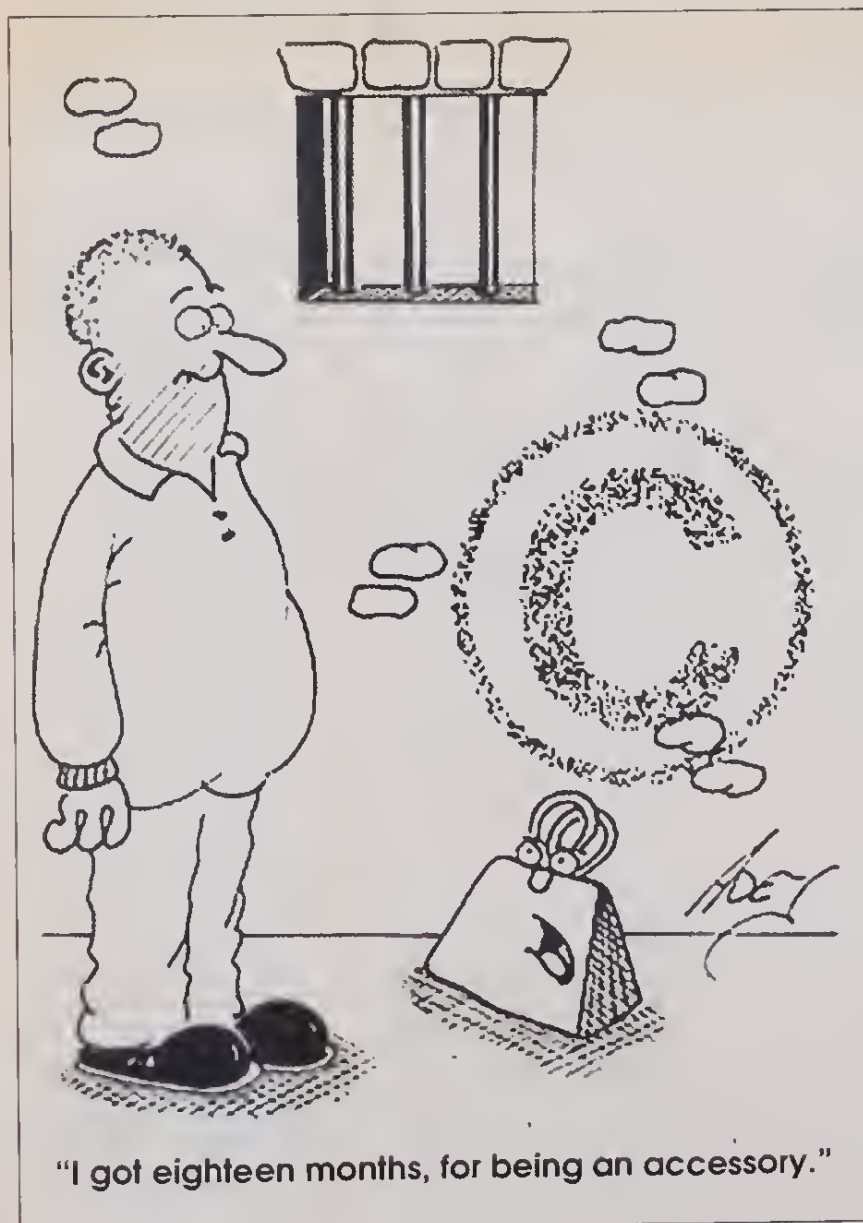
One of the glaring problems with the reasoning in *People v. Cooper* was the bench's defense-oriented partiality, in disregard of the exigent circumstances of the case. The courts have routinely used the exigent circumstances which police encounter to uphold a warrantless search of the defendant. Here, the exigent circumstances were the defendant's attempt to destroy evidence. The defendant's first furtive movement was when he threw the marijuana to the floor of the automobile. Then, while the officer exited his police cruiser, the defendant apparently seized the mo-

Continued on Page 11

### Note to Readers:

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# Public satisfaction with police goes beyond Broken Windows

Continued from Page 1  
ing training to your officers starting all the way back at the academy," Reisig suggested. "Communicate these expectations to officers, and over time, hopefully, institutionalize them."

If individual perceptions of quality of life do not consistently reflect actual neighborhood conditions, as shown by the diversity of opinion among residents, then it follows, the study said, that more community policing activities, such as neighborhood cleanup programs and aggressive maintenance of order, "may have only a modest effect on residents' satisfaction with police."

Reisig's study is one of a number that have come out of academia recently that pit criminal justice theorists against practitioners, most of whom have widely endorsed and implemented the Broken Windows approach, which calls for eradicating social disorder as a means of curtailing crime.

Last year, another NIJ study by researchers Stephen W. Raudenbush and Robert J. Sampson, called "Disorder in Urban Neighborhoods — Does It Lead to Crime?" caused a firestorm when it posited that while there is a correlation between disorder and crime, one does

## Improving contacts with citizens, not neighborhood conditions.

not lead to the other.

Raudenbush said in an earlier LEN interview: "'Broken Windows' says essentially that disorder in neighborhoods could be a direct cause of crime.... Our results suggest that it's probably not that simple. We think disorder could more be viewed as a manifestation of crime."

Reisig does not discount Broken Windows, but rather contends that only a modest improvement in satisfaction with police occurs when police strive to improve quality of life instead of the quality of contacts with citizens.

"What we're trying to say is if you have limited resources, which nearly every police department across the country has, and you're trying to get the biggest bang for your buck, we would recommend focusing on providing high quality of service during police encounters," he told LEN. "In the long run, it will produce more of an influence on how people feel about police when compared to focusing on quality-of-life issues."

However, George L. Kelling, a professor at the Rutgers University School of Criminal Justice who co-authored the groundbreaking 1982 article, "The Police and Neighborhood Safety: Broken Windows," argued that Reisig and his fellow author, Indiana University professor Roger B. Parks, are advocating for a change in the mission of police.

"If you begin with the idea that the business of police is to prevent crime and maintain order, it's almost a goal substitute to suggest that the police not concentrate on preventing crime and maintaining order but should concentrate on improving the quality of relationships," he said. "I'm not sure we want to put ourselves in the position of saying citizen satisfaction with police should be emphasized to the extent it is in this paper."

In an interview with LEN, Kelling pointed to the low levels of satisfaction expressed by Boston residents during

the anti-busing riots of the 1970s, when police were called upon to enforce widely unpopular laws. Forging a good relationship with the community is one goal among many in law enforcement, he said, and should not be pursued at the price of preventing crime and maintaining order.

The thesis of the Reisig-Parks study, said Kelling, seems to harken back to an era of "feel-good policing" when many believed that if law enforcement's ability to control crime was limited, the least it could do was maintain a good relationship with the community — particularly minority residents.

Kelling noted that providing feedback to citizens on the effectiveness of crime-fighting strategies is something that police often do not do well. Citing the case of the New York City subway system, he said that not only was order restored and crime reduced, but police, under the system's former police chief William Bratton, told residents what was being accomplished.

"They didn't attempt to change the subway users' perception of police by relating positively to citizens," Kelling said. "What they did was deal with disorder. There's good reason to believe that when you changed the quality of life within the subway, citizens' perception of the police changed. Not only did fear of crime drop, but appreciation of quality of law enforcement was highest among African Americans."

According to Kelling, it is within academia that the notion of police being able to improve a community's quality-of-life, and the importance of that goal, is taking a beating. Practitioners, he said, still see it as a priority. Whatever criticism has been leveled at Broken Windows by researchers has clearly not affected the field, said Kelling.

"Very few police departments deny that an important part of the business is improving the quality of the citizen's life, and that's graffiti, disorderly behavior, drinking and low-level drug dealing," he said. "In the universities, there's a fair amount of debate about that, and some of it is quite shrill. 'In many respects, there's much more to be learned.'"

## Headlines are not enough

*Affirmative-action programs looking a little black & blue*  
*Now B.I. it's a mother*  
*The jury is still out on community policing*  
*It's a mother*  
*Maternity-leave*  
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**Law Enforcement News**

A publication of John Jay College of Criminal Justice/CUNY

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## Agencies take stand against ads on cars

Continued from Page 1

degrade our law enforcement officials who put their lives on the line every day in service of the public."

Two jurisdictions where advertising will not be seen on police vehicles are Albuquerque, N.M., and surrounding Bernalillo County. Police and sheriff's department officials there said this month that they were not interested in the deal.

"We would not do it," said sheriff's spokeswoman Michele Arviso Devlin. "It does not fit the image of law enforcement we wish to portray."

Jeff Arbogast, a spokesman for the police department, told The Albuquerque Journal: "They can save that stuff for the taxi cabs and the buses. But on a police car, it's just not professional."

In Salt Lake City, police and county officials have also demurred — for much the same reason that discounted meals at restaurants are considered im-

proper for police.

"[Companies] may expect 'Get Out of Jail Free' cards passed around at board meetings," said South Salt Lake Officer Darin Sweeten.

It would be seen as less than ethical in the department's approach to giving citizens equal treatment, agreed Salt Lake City Detective Dwayne Baird.

"You just don't want to set yourself up for that kind of problem," Salt Lake County sheriff's deputy Peggy Faulkner told The Deseret News.

Still, for some police chiefs, the attraction of virtually free police cars is hard to resist during times of fiscal austerity. In Springfield, Fla., officials have agreed to buy 15 ad-embellished cars from Government Acquisitions over the next three years. Responding to critics, Police Chief Sam Slay said, "If some organization wants to write us a check and purchase those vehicles, we can call it off."



# Madison resolution takes a swipe at USA Patriot Act

Police officers in Madison, Wis., will not engage in random profiling based on religion or political values, as well as on the basis of race, ethnicity or citizenship, nor will they conduct interviews with anyone based solely on an individual's country of origin unless linked to some illegality, under the terms of a resolution passed in October by the City Council.

"It was important to reaffirm our current policies so that the residents of the city of Madison can be assured that their First and Fourth Amendment rights will continue to be upheld," said Alderwoman Brenda Konkel, one of the chief sponsors of the measure, which also calls on the federal government to repeal parts of the U.S.A. Patriot Act.

The resolution directs the police department to continue its current practice of not using racial profiling to review library, bookstore or video rental records. Officers may not act in a manner that would deprive community members of "equal protection of the laws" or "evidence bias in the performance of their duties."

Moreover, police will not arrest or detain individuals based solely upon suspected violations of immigration laws. The police chief will maintain and dispose of records in accordance with Wisconsin's Open Records Law, and with due regard for privacy and reputation of the individual whose records are being accessed, the resolution states.

In its draft form, the statement's language had concerned Chief Richard Williams and Mayor Sue Bauman because it prohibited police from working with the federal government on terrorism and related investigations.

"With the amendment on the resolution, it's not going to affect the police department in any way as far as our investigations go," Officer Larry Kamholz, a department spokesman, told Law Enforcement News. "That got changed, so we will continue to work with the federal government in any investigations they may have."

Peter Munoz, an assistant to the mayor, said the resolution was altered to reflect an effective policy preventing racial profiling that is already in place. The council's action basically upholds it unless "there is a very specific law enforcement need around a specific case," he told LEN.

After the Sept. 11 terrorist attacks, the police department received requests from the federal government to participate in some information-gathering activities, said Munoz. Williams, however, found these to be at odds with the policy and issued a public statement of refusal, he noted.

"In terms of how we operate, we don't anticipate that it will affect us because if we do receive a lawful request from the federal government regarding law enforcement, we will comply with it," Munoz said.

## Career DA's on Colo. endangered species list

Voters' rejection of a Colorado initiative that would have eliminated term limits for the state's 22 district attorneys will have a destabilizing effect on the criminal justice system, prosecutors maintain.

Colorado is the only state that has such a law. Adopted in 1994, the statute limits a district attorney's tenure to two four-year terms. A failure by voters this month to pass Amendment A, as the initiative was known, will mean the replacement of at least 16 district attorneys by 2004. Two have already left for other prosecutorial positions, one with the Colorado attorney general, and the other with the U.S. attorney's office, said Denver District Attorney William Ritter, a former president of the state's district attorney's association.

"What it means in my mind," he told Law Enforcement News, "is there's a great degree of instability among our ranks because over the next two years, every D.A. up and down the Front Range — which is the population center for Colorado — is term-limited with the exception of Boulder County. You have all these offices where career prosecutors largely hold elected positions."

"I think it destabilizes the offices," he said. "It endangers the process in that it could become politicized differently than it has before."

There is also the fear that defense attorneys after 2004 will have an advantage, going up against younger, less experienced prosecutors. Moreover, a tenure lasting just eight years could make it hard to find district attorneys for rural areas. No one in those offices could fill the post in "anywhere close

to a seamless fashion," said Bob Grant, the Adams County district attorney. "They aren't there."

But not everyone agrees. David Otke, leader of the Colorado Term Limits Coalition, told The Rocky Mountain News that there are numerous attorneys qualified to run for district attorney, many of them coming from the ranks of deputy prosecutors.

"Most of the legal work is done by the legal staff under the district attorney," said Otke. "Those are people who have a great deal of experience in prosecutorial work. I've gotten several calls from different districts where people fear the powers of district attorneys who make decisions based on politics rather than the merits of the case."

While Ritter agreed that there is a wealth of talent to be found within the ranks of county prosecutors' offices, he insisted that the district attorney's position is different. "An elected prosecutor has the sense of how to handle community issues, political issues, media issues, and in addition, make decisions grounded in justice," he said.

Trish Thibodo, the executive director of the Colorado Coalition Against Domestic Violence, lined up with the district attorneys. "We don't see career prosecutors as easy to replace," she told The Rocky Mountain News. "Prosecutors are not like politicians. They have very serious duties to perform. A career prosecutor has years of training on the very complex nature of homicide, sexual assault and domestic violence cases. It's these prosecutors who really set the tone in their offices as to how crime victims are treated."

# Forum: A case of defense-oriented law

Continued from Page 9

ment and hastily attempted to destroy evidence by digesting the drug.

As the Supreme Court has observed, "Where there are exigent circumstances in which police must literally be now or never, to preserve the evidence of crime, it is reasonable to permit action without prior judicial authorization" (Roaden v. Kentucky, 1973). Where the evidence is in the actual process of destruction, the justices have ruled, a warrantless search of a house is permissible (Vale v. Louisiana, 1970). Clearly, in the Cooper case, Officer Paynter had to act "now or never" to preserve the evidence, as the facts strongly indicate the defendant was in the process of destroying that evidence.

## Favoring the Defense, Protecting the Drug Trade

Police officers like myself meet monthly with the community to discuss mutual concerns. While these meetings are open to all members of the community, I have yet to see a judge or a law professor in attendance. Nonetheless, they are frequently quoted by the media as experts on police encounters involving the protection of the Fourth Amendment.

Were the media and such "experts" to attend these meetings, they would hear citizens articulate with great emotion the consequences of drug dealing in their neighborhood. Children cannot play in the street as the drug dealers harass and intimidate them. Used needles, Baggies with drug residues and other drug paraphernalia litter the street,

endangering the health and morals of children. Cars often occupied by drug buyers double-park, blocking access to homes, impeding children at play and causing congestion. Motorists frequently speed and play their radios loud enough to rattle windows, eroding neighborhood tranquillity and the over-

## When the legal community turns a blind eye to the facts regarding inner-city drug dealing.

all quality of life. Gunfire is observed as well as heard, creating a lifetime of emotional trauma to a child who witnesses the gang fights, shootings and assaults for control of turf and drug-dealing locations. Loitering by drug buyers and dealers restricts free access on street corners and inside non-secure buildings. What should be a pleasant walk home from work may become a wind sprint as family members run a gauntlet of potential muggers and predators. All too often, the primary income provider in drug-prone areas is a single working mother. Certainly, she does not need any further impediments to raising her family.

Even so, some in the legal community turn a blind eye to these realistic facts regarding drug dealers in the in-

ner city, and wholeheartedly support the legal reasoning applied in *People v. Cooper*. John Wesley Hall Jr., a criminal defense lawyer and author of the book "Search and Seizure," sided with Judge Harris, telling reporters: "The cop should have looked for other ways to find the drugs if he suspected the man had some on him. Just because he suspects something is in there doesn't give him probable cause to choke it out of the suspect."

Sadly, this type of legal reasoning is gaining academic acceptance and is pervasive in legal training. However, it is detrimental to notions of a fundamental community liberty interest, namely the right to enjoy reasonable peace and tranquillity in one's neighborhood. This right is equal to, if not greater than unbridled individual liberty indifferent to other human interests. Police officers have a duty to protect both the individual and the community. The legal reasoning in *People v. Cooper* protects only the former, while enabling drug dealers to erode our neighborhoods.

While justifying their logic with a veneer of protecting individual liberty, the defense-oriented jurisprudence community, as represented by the reasoning in *People v. Cooper*, stands in reckless disregard of the realistic facts and character traits of predatory drug dealers. To the defense-oriented bench and bar, the liberty of the community is apparently subordinate to liberty of the individual. When radical, unbridled individual liberty supersedes the liberty of the community, law in the service of human needs ends.

## Nation's DUI "report card" shows grades slipping

Continued from Page 1

California was given a "B+." Next were Georgia, New York, North Carolina and Oregon, all of which were given "Bs." North Dakota, Rhode Island, South Carolina and South Dakota all received "Ds," while the worst marks, "D-," were given to Massachusetts and Alaska.

At the federal level, the Bush administration received a "C," a grade lower than that given the Clinton administration in 1999. Law enforcement programs and blood-alcohol and data collection efforts were rated "C+"; passage of administrative measures and criminal sanctions nationwide stayed at a "B-," and youth programs and underage-drinking prevention initiatives dropped to a "C+." Victims programs were given a "D+."

Wendy J. Hamilton, MADD's national president, said the overall grade of "C" — "for complacency," she said — was due in part to the increase in alcohol-related traffic deaths. On average, more than 300 people are killed in drunken-driving accidents per week, she noted.

"The war on drunk driving has reached a complacent plateau and we must change the dangerous public perception that the fight against drunk driving has been won," said Hamilton.

Among the top legislative priorities for states to address, said the report, are primary enforcement of safety-belt laws; mandatory alcohol assessment and treatment; mandatory blood-alco-

hol testing for all drivers in fatal crashes, and ignition interlock laws. The group's eight-point plan for jump-starting a war on drunken driving also includes tougher laws for more serious DUI offenders, and the widespread use of sobriety checkpoints and other highly visible enforcement efforts.

"These measures are the basic building blocks of a comprehensive battle plan against drunk driving," said James Fell, an alcohol-traffic safety expert at the Pacific Institute for Research and Evaluation, who serves on MADD's board of directors and on the Rating the States task force.

## Cruising the high-way

Just as they have with alcohol, states need to adopt criminal laws that set a strict standard on the presence of illegal drugs in a driver's body, according to a new report which said that an estimated 9 million Americans a year drive under the influence of marijuana or cocaine.

The report, released on Nov. 14 by the National Highway Safety Administration and the Robert Wood Johnson Foundation, based its findings on a 1999 survey conducted for the Department of Health and Human Services.

"Driving under the influence of drugs is a growing national problem, particularly among young people, but drugged drivers are not detected nearly as often as drunk drivers," Michael Walsh, the study's lead author, told The New York Times. "There is an assumption that if we can arrest drunk drivers, we are getting all the drugged drivers, but that's

not true."

Walsh, the president of a Maryland-based consulting firm and the executive director of the President's Drug Advisory Council during the first Bush administration, added: "There are literally millions of Americans who are driving under the influence of drugs that we are not detecting, arresting or sending to treatment."

Only eight states make it illegal to drive with any measurable amount of narcotics in one's system: Arizona, Georgia, Illinois, Indiana, Iowa, Minnesota, Rhode Island and Utah. Prosecutors in all the other states must prove that the drug played a role in the driver being stopped.

The study noted that even in those states that criminalize driving with any amount of drugs in the system, there were few convictions in 1999. Minnesota, for example, had just 204.



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## Gas crisis



- San Diego slams brakes on illegal street racing.
- A bad report card for nation's anti-DUI efforts.

## Can't get no satisfaction?

Study says it's more about improving quality of police-public contacts than "fixing broken windows." **Page 1.**



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### What They Are Saying:

**"In my 35 years of public health practice I have never seen a public health problem of greater magnitude. It is off the scale."**

— Stephen Bender, a professor of public health at California State University at San Diego, on the often-fatal phenomenon of illegal street racing. (Story, Page 7.)